How to Personally Enforce the Torture Convention

A Practical Guide, in Impossible Steps, to Vindicating a Non-Derogable Personal Right Under United States Law

Version 1.1

Congratulations. You hold one of the very few genuinely absolute rights in all of law.

The prohibition of torture admits no exception, no emergency, and no balancing. It is owed to you personally. The United States accepted that obligation by treaty in 1994 and has told the world, ever since, that it honors it.[1] This is a plain-language guide to enforcing it.

It proceeds in steps — the real avenues a torture survivor would try, in the order a person would try them, each followed to the point where it ends. The law behind every step, the authorities, and the Institute's formal analysis are set out in the numbered Analytical Notes at the end; the guide itself stays in plain language. Read the steps in order. By the last, you will have traveled the entire enforcement architecture of the United States and of the international system it belongs to, and come back holding the right you began with and no way to use it.

> **A note on register.** The satirical, second-person form is a method of public legal education, not a departure from rigor. Its target is the architecture, never survivors or the gravity of torture; no person is ridiculed, and no individual's responsibility is presumed. Every factual claim is verifiable or identified as the Institute's inference, every legal claim is sourced in the Notes, and every classification of conduct remains element-specific. A fuller Note on Register, Accessibility, and Impartiality appears at the end.

The promise: you have an absolute right

Start with what you were promised. Torture is one of the few things international law forbids absolutely — no war, no emergency, no order from above excuses it — and the United States has said so, at the highest level, over and over, in its reports to the United Nations body that monitors the treaty: no exceptional circumstances, ever; a peremptory norm from which no derogation is permitted; and, in its own words, "no penal immunity" for the crime of torture.[2] Hold that promise in mind. Now watch what happens when you try to use it.

The catch you were not shown

When the United States ratified, it added fine print. It declared the treaty's core "non-self-executing" — meaning you cannot sue on the treaty itself unless Congress supplies the implementing law. And Washington told the world that law was unnecessary: existing federal and state law, it represented, already provided what the Convention required — the one gap it acknowledged, torture committed abroad, was filled by statute before ratification was deposited. Congress enacted scattered substitutes, but never the general cause of action and enforcement system that would let you personally invoke the Convention's core rights.[3] The right exists on paper. The promise was that American courts already held the key; the key that opens the treaty itself was never cut.

Step one: sue the person who tortured you

You are badly hurt — permanently disabled by what was done to you, and without resources. You go to court, without a lawyer and in forma pauperis, for damages. Every door is shut or booby-trapped. The remedy against federal officers has been narrowed almost to nothing.[4] The statute for state officials makes you find a past case close enough to show the violation was already "clearly established" — unless it was one of the rare violations so obvious no case is needed — before immunity lifts.[5] The two federal laws that expressly name torture point outward: one reaches torture committed abroad; the other, torture carried out under the authority of a foreign nation.[6] And the fallback routes — suing the government, or under ordinary tort law — are fragments, each keyed to some category other than the right you actually hold.[7]

What happens to you: You can re-file your torture as some other kind of claim and litigate it through immunity, substitution, and technicalities.

Why this is not enforcement: None of it lets you sue for the treaty violation itself, and none delivers the remedy the United States said the treaty requires.[8]

Step two: ask the government to punish them

So you ask the State to prosecute. You write to the Justice Department, the state Attorney General, the county District Attorney. You enclose the documentation — the medical records, the findings, the names — everything a reasonable official would need to see reasonable grounds. What comes back is silence, or a form letter; no one examines anything. Your treaty right here is real, and thin: you may complain and ask for a prompt, impartial examination — but you cannot force a charge, and the "non-self-executing" catch means you cannot even force the examination.[9] There is no federal crime that names torture committed by an official inside the United States as torture.[10] And the government has already conceded the very point — "no penal immunity for torture" — yet when the torturer was its own intelligence agency, it prosecuted no one.[11]

What happens to you: Your documented complaint is received, and no examination follows — and the law gives you no way to compel one.

Why this is not enforcement: You hold the right to complain; you hold no lever to make the complaint answered.[12]

Step three (you did not choose it): the harm again — this time through the court

This step is administered to you. Disabled by the original torture, you ask the court for reasonable accommodations — more time, remote appearance, help filing. Here it matters that your torturer was a federal officer, so you are in federal court, where the accommodation protections that cover state courts do not apply, no clear federal standard replaces them, and whether you are accommodated is largely left to discretion.[13] The accommodations are denied. Deadlines you could not meet without them are counted against you. In the end you are branded "frivolous and vexatious" for having tried.[14]

Whether that treatment crosses into torture, or into cruel, inhuman or degrading treatment, is a question of fact the Institute does not presume.[15] Under the doctrine the courts presently administer, a judge acting in a judicial capacity is ordinarily shielded from your suit for damages by absolute judicial immunity — a shield against personal civil damages, not against criminal prosecution, appeal, or discipline.[16] The Institute holds that this civil shield cannot survive an established finding of torture; whether it yields for ill-treatment short of torture is a separate question the Institute addresses in its own CIDT determination, not here.[17] And notice what the courthouse is in this design: the ratification record named court-administered remedies as the reason the treaty needed no domestic remedy of its own — the courts were made the custodians of the promised equivalent. When the courts deliver neither the equivalent nor the treaty, and answer the attempt with "frivolous" and "vexatious," the system itself is acquiescing in what was done to you.[16]

What happens to you: The instrument meant to vindicate your right becomes the one that forecloses it — and marks you for having sought it.

Why this is not enforcement: The administered civil shield stops your damages suit before the treaty classification can produce a remedy; and even where the Institute holds the shield falls away — for torture — the cause of action you would need is the one that was missing at step one. The government's promise of "no penal immunity for torture" speaks to criminal, not civil, immunity.[17]

Step four: go international — and find help

Finished at home, you look abroad. You can act on your own — the mechanisms take information from individuals — and what an experienced organization supplies is not standing, which you already have, but capacity: corroboration, preservation, aggregation with others, sustained follow-up, and the presentation of a single injury within a documented pattern.[18] The Convention's own door for an individual's complaint against the United States is shut: the United States never opened it.[19] A regional door does open — the Inter-American Commission on Human Rights takes individual petitions against the United States, and when survivors of the CIA rendition program walked through it, the Commission admitted their case and found that no effective remedy was available to them in the United States; the United States answered, from inside the door, that the instrument is "non-binding" and its recommendations need not be followed.[19] What is left of the treaty system names but cannot command — expert "special procedures," the periodic public review, and a confidential inquiry into systematic torture that the United States did stay subject to, but which is about patterns rather than your case and yields no judgment and no compensation.[20]

What happens to you: Regionally, your petition can be heard and even upheld — in recommendations the United States insists it is not obligated to follow; in the treaty system your suffering becomes, at best, one data point in a confidential inquiry into a pattern.

Why this is not enforcement: That is the system acknowledging credible indications of a systematic practice your case may fit — without deciding whether your own allegation is proved, or repairing your loss; and the one body that can decide your own petition cannot bind the United States to its answer.[21]

Step five: get another country to sue the United States

Your last theory is to persuade a foreign government — with no stake in your injury — to take the United States to court internationally, and bring the ruling home. Follow it to the end. First the one inter-State door the United States accepted: a confidential conciliation that issues a report, orders nothing, and awards you nothing.[22] Then the World Court — which the United States switched off with a reservation at ratification.[23] An advisory opinion? You cannot request one; only United Nations organs can, so your champion would have to persuade the General Assembly to vote to ask — and the opinion would not bind anyway.[24] And even a favorable contentious judgment, binding between the States though it would be, the Supreme Court has held would not be enforceable back home without an act of Congress.[25]

What happens to you: The loop closes where it began: the cure is handed to a Congress that has not acted.

Why this is not enforcement: Every available international door is confidential, conciliatory, optional, unavailable to you personally, or — even when binding between States — incapable by itself of producing a domestic remedy you can enforce.[26]

The point, in one sentence

You hold the right; every lever that could enforce it belongs to someone else — the missing cause of action, the charging decision, the accommodation, the immunity, the international complaint, the World Court's door. And none of this is your failing. The architecture was built by a profession that has itself recorded what it built: a judge who served on both sides of it recorded that representing yourself — ordinary in his father's generation — had become "a bizarre event," and that a procedural rule he personally helped draft was "pretty much beyond use by the noninitiated." The United States swore the prohibition absolutely, again and again, in its own voice before the treaty body — and built an architecture in which no one answers for the wrong in the form the treaty requires.[27]

What would actually make the right enforceable

The gap is not a law of nature; it is a set of choices, and the same branches that made them can unmake them. In short: pass the laws that turn the treaty's core rights into ones a person can actually sue and complain on; make torture by an official inside the United States a serious federal crime; open the individual-complaint door and the World Court door the United States closed; and give a survivor's case somewhere, at last, to land. The full program, and how it maps to each closed door above, is set out in the Notes.[28]

Until then, the guide stands as written, and its title is not a promise but a diagnosis: in the United States, freedom from torture is a personal right that the person who holds it cannot personally enforce.

Analytical Notes

The narrative above is the guide. The rigor is here: each note carries the governing law and authorities, and, for each step, the Institute's four-plane imputation (binding standard, administered reality, documented divergence, and the violation imputed with a named duty-bearer). Authorities support the Institute's determinations; they do not decide them.

1. The prohibition of torture is a peremptory norm of general international law (jus cogens); the International Law Commission's 2022 Conclusions (Rep. of the Int'l Law Comm'n, 73d Sess., U.N. Doc. A/77/10 (2022)) list the

prohibition of torture in the annex governed by Draft Conclusion 23. The peremptory norm is the *prohibition*, not the Convention as a whole; and United States ratification of the Convention (Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted Dec. 10, 1984, 1465 U.N.T.S. 85, S. Treaty Doc. No. 100-20; ratification deposited 21 October 1994) did not create the pre-existing peremptory right but assumed treaty obligations to secure it. Those obligations bind the *State*; the natural persons who act as its organs bear personal responsibility concurrently under independently applicable criminal, civil, or international law — a matter the Institute preserves by way of the saving clause in the ILC Articles on State Responsibility (Articles on Responsibility of States for Internationally Wrongful Acts, G.A. Res. 56/83, annex (Dec. 12, 2001)), art. 58 — not as treaty duty-bearers. Before the Committee against Torture (the expert body established under Article 17, monitoring implementation through Article 19 reporting), the United States has professed the prohibition repeatedly: "No exceptional circumstances may be invoked as a justification of torture" (Initial Report, CAT/C/28/Add.5, ¶ 6); the absolute prohibition is "of fundamental importance" and "we do not torture" (CAT/C/USA/3-5, ¶ 2); "prohibited at all times in all places" (Opening Statement, M. E. McLeod, 12 Nov. 2014); "a peremptory norm ... from which no derogation is permitted" (CAT/C/USA/6, ¶ 2). The Committee's Concluding Observations are authoritative treaty-body assessments, which the Institute treats as authoritative Article 17 interpretation and highly probative monitoring evidence — not binding judgments. The verbatim record is cataloged in Appendix A. ↩ text

2. Asked in 2006 whether anyone was immune from the crime of torture, the United States answered that "there is no 'penal immunity' for any person for the crime of torture under U.S. law" (United States Written Response to Questions Asked by the Committee Against Torture (Apr. 28, 2006), a Department of State publication carrying no United Nations document symbol; restated orally at the 5 May 2006 review (CAT/C/SR.703)). The concession is exact and narrow: it speaks to criminal prosecution for the crime of torture. It does not concede that civil, judicial, or foreign-State immunity is displaced, and it does not reach ill-treatment under Article 16. ↩ text

3. The United States declared that "the provisions of Articles 1 through 16 of the Convention are not self-executing" (Resolution of Ratification, Treaty Doc. 100-20, Declaration III(1)). A non-self-executing provision creates no privately enforceable federal right absent implementing legislation: *Medellin v. Texas*, 552 U.S. 491 (2008), which the Institute reads not as an obstacle but as the engine assigning the cure to Congress. Congress has enacted no general statute making the substantive articles enforceable by a survivor against a United States official. Two further reservations compound the effect: Article 16 (cruel, inhuman or degrading treatment) is accepted only so far as the Fifth, Eighth, and Fourteenth Amendments already reach (Reservation I(1)); and the United States "understood" Article 14 to require a private right of action for damages for acts of *torture* committed in territory under its jurisdiction (Understanding II(3)) — an action that the treaty itself, being non-self-executing, does not supply as an operative federal cause of action; the private right was to be satisfied, on the United States' own representation, by the existing domestic remedies set out below — a represented equivalence whose continued adequacy this instrument examines and rejects. And the withholding was never naked: its stated predicate was equivalence. The Senate report itself states it: "Since the majority of the obligations to be undertaken by the United States pursuant to the Convention are already covered by existing law, additional implementing legislation will be needed only with respect to article 5, dealing with areas of criminal jurisdiction" (S. Exec. Rep. No. 101-30, at 10 (1990) (Declarations discussion)); and, in the State Department's assurance to the Senate, "existing Federal and State law appears sufficient to implement the Convention; thus, the Convention will not itself provide an independent cause of action in U.S. courts" (id. app. B, at 41 (letter of Assistant Secretary Mullins to Senator Pressler, Apr. 4, 1990)). The Article 14 showing was mechanism-specific: "Existing U.S. law already establishes private rights of suit sufficient to implement Article 14" — a common law tort action, a civil action under 42 U.S.C. §§ 1981–1992, or the *Bivens*/*Carlson* constitutional tort — and, where individual federal defendants "could claim immunity from civil suit, an action could be brought against the United States. 28 U.S.C. § 1346(b) and § 2674" (id. at 24 (Summary and Analysis, Article 14)) — the very mechanisms Step One shows since narrowed, substituted, or barred. The Institute's amicus curiae brief in *In re K.N.*, No. 24-0881 (Tex., filed Feb. 2026), states the same predicate in paraphrase. The deposited instrument then assigned the machinery: Understanding II(5) commits implementation of Articles 10–14 and 16 to the "competent authorities of the constituent units" wherever federal jurisdiction does not reach — the courts among them. Non-self-execution thus rests on a representation that the domestic system already delivers the Convention's equivalent, and the Article 14 showing rested that equivalence centrally on judicially administered remedies. The courts are, in the Institute's formulation, the custodians of the represented equivalence: within the judicial sphere they administer the constitutional, statutory, tort, equitable, and procedural mechanisms named as the domestic substitute for direct treaty enforcement, and must give them a scope consonant with the absolute prohibition — a responsibility real but bounded, for courts cannot enact the missing offense or cause of action. Where the promised equivalence cannot be delivered through

adjudication, responsibility returns to Congress with redoubled force; and the Institute's inference from this record — stated as its own determination, not as deposited text — is that continued reliance on non-self-execution, after the remedies named as sufficient have been narrowed or barred, carries a continuing duty to restore the equivalence represented. ↩ text

4. The implied damages action against federal officers, *Bivens v. Six Unknown Named Agents*, 403 U.S. 388 (1971), has been narrowed for four and a half decades as a "disfavored" judicial activity: *Ziglar v. Abbasi*, 582 U.S. 120 (2017); *Egbert v. Boule*, 596 U.S. 482 (2022); and *Goldey v. Fields*, 606 U.S. 942 (2025) (per curiam), which held no *Bivens* remedy available for an Eighth Amendment excessive-force claim against federal officials, placing even that outside *Carlson*'s inadequate-medical-care context. The governing test is whether the constitutional claim is meaningfully different from *Bivens*, *Davis v. Passman*, or *Carlson v. Green*, not whether the facts are grave enough to be called torture; after these cases, virtually any meaningful difference defeats extension. Unless a claim fits one of the three inherited contexts without a meaningful difference, it will not reach a jury. Leaving *Bivens* nominally intact while rendering it practically unavailable produces, in the Institute's assessment, a pacifying illusion that the right against federal officers still has teeth. ↩ text

5. Against a state official, 42 U.S.C. § 1983 supplies a statutory action, but qualified immunity ordinarily requires a prior case with facts particular enough that the unlawfulness was "clearly established" — the narrow exception for violations so obvious that no precedent is needed (*Taylor v. Riojas*, 592 U.S. 7 (2020) (per curiam)) being narrowly applied — and supervisors are shielded absent their own violation (*Ashcroft v. Iqbal*, 556 U.S. 662 (2009)). The treaty right to freedom from torture is not the currency the court accepts: the § 1983 claim must rest on a clearly established domestic constitutional right, a requirement of the statute itself. Separately, Reservation I(1) confines the United States' accepted Article 16 obligation to substantially that same constitutional floor — so the treaty supplies no broader domestically accepted standard the analogue could grow into. ↩ text

6. The criminal torture statute, 18 U.S.C. §§ 2340–2340A, reaches only torture committed *outside* the United States. The Torture Victim Protection Act (28 U.S.C. § 1350 note) creates a civil action only for torture under actual or apparent authority, or color of law, of a *foreign* nation. The Alien Tort Statute (28 U.S.C. § 1350), after *Sosa v. Alvarez-Machain*, 542 U.S. 692 (2004), will not carry a domestic-conduct suit by a United States citizen against a United States officer. ↩ text

7. The fallback routes are fragments. The Federal Tort Claims Act waives federal sovereign immunity for certain intentional torts of investigative or law-enforcement officers (28 U.S.C. § 2680(h)) but only against the United States, only after administrative exhaustion, and subject to the discretionary-function and other bars — never for the constitutional wrong as such. Under the Westfall Act the United States *may* be substituted for the individual defendant where the officer acted within the scope of employment; scope is determined under the applicable jurisdiction's respondeat-superior law, under which intentional or unlawful conduct may or may not fall within scope, and the certification may be contested — where substitution does not apply there is no FTCA, and the personal action may remain, subject to other immunities. State assault, battery, false-imprisonment, and intentional-infliction claims *may* reach a federal officer personally where substitution does not apply or is defeated, subject to immunities, forum, and applicable state law; but they create no UNCAT cause of action. Municipal liability under *Monell v. Department of Social Services*, 436 U.S. 658 (1978), requires a policy or custom, or a qualifying decision by a final policymaker (*Pembaur v. City of Cincinnati*, 475 U.S. 469 (1986)); ordinary respondeat superior is unavailable. Prospective relief may lie — against state officials under *Ex parte Young*, and against federal officials on separate equitable and statutory foundations — and habeas where custody exists can halt an ongoing or threatened wrong, though neither ordinarily compensates completed harm; declaratory relief declares legal relations without itself compelling cessation or payment. The FTCA, state tort law, and § 1983/*Monell* may compensate past injury in qualifying cases — but only through causes of action, waivers, and elements independent of the Convention. None supplies the direct Article 14 action the United States itself represented the Convention to require. ↩ text

8. Imputation. Plane A: an enforceable right to redress and fair compensation for torture (UNCAT art. 14 — the private action the United States itself represented Article 14 to require, naming as sufficient the common law tort action, the civil rights actions, the *Bivens*/*Carlson* constitutional tort, and, where immunity blocked the individual, suit against the United States (S. Exec. Rep. No. 101-30, at 24 (Summary and Analysis, Article 14)); ICCPR art. 2(3) (International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171)). Plane B: the proxies above, fragmentary and keyed to categories other than the treaty right. Divergence: no direct, complete, treaty-conforming civil remedy for the torture as such — the survivor may translate the injury into another claim but cannot plead the treaty violation, and the fragments do not amount to the represented Article 14 remedy. Imputed violation: denial of an enforceable right to reparation for a jus cogens wrong. Duty-bearers, split by wrong and concurrent as

to the underlying act:[1] for the underlying torture, the State (attribution, ILC art. 4) and the individual perpetrator (personal responsibility under independently applicable law, preserved by ARSIWA art. 58) answer concurrently, neither absolving the other; for the remedial wrong imputed here — the failure to furnish the enforceable Article 14 redress system — the duty-bearer is the United States, whose legislative and judicial organs own that failure. This is enabling architecture that an Article 20 showing would draw on, not itself proof of systematic practice. ↩ text

9. Article 13 gives the individual the right to complain and to a prompt and impartial examination; Article 12 obliges the State to investigate on reasonable ground; Articles 4–7 (criminalize, establish jurisdiction, prosecute or extradite) are duties owed by the *State*, not powers held by the victim. In the Institute's determination, accountability for torture is mandatory *as a system* — categorical non-enforcement is incompatible with the Convention — even though Article 7 leaves the individual charging decision to be taken, on the evidence, as in any ordinary offense of a serious nature. And because Articles 1–16 are non-self-executing, United States law gives the individual no action to compel treaty-conforming performance of the Article 13 examination duty, still less an indictment. ↩ text

10. Section 2340A — enacted to fill the single gap the ratification record acknowledged, jurisdiction over torture committed abroad (S. Exec. Rep. No. 101-30, at 10 (Declarations discussion), 20 (Article 5 analysis)) — being extraterritorial, there is no generally applicable federal offense that criminalizes official torture committed within the United States *as torture*; 18 U.S.C. § 242 (willful deprivation of rights under color of law, with enhanced penalties where bodily injury, kidnapping, aggravated sexual abuse, or death results), § 241, and ordinary assault, homicide, and kidnapping statutes may criminalize some or all of the same conduct through different elements and labels; what they do not constitute is a comprehensive domestic Article 4 offense of official torture as torture, and their enforcement remains outside the victim's control. A private citizen has no judicially cognizable interest in the prosecution or non-prosecution of another (*Linda R.S. v. Richard D.*, 410 U.S. 614 (1973)), and even a mandatory-sounding command confers no entitlement to enforcement (*Town of Castle Rock v. Gonzales*, 545 U.S. 748 (2005)). Prosecutorial immunity is functional, not occupational: it is absolute against personal civil-damages liability for the charging or declination decision (*Imbler v. Pachtman*, 424 U.S. 409 (1976)), but it does not immunize investigative conduct or personal participation in the wrong, and it confers no criminal immunity and no shield from professional discipline. ↩ text

11. When the wrong was the Government's own — the Central Intelligence Agency's rendition, secret-detention, and interrogation program — the Committee recorded an "ongoing failure ... to fully investigate," "evidenced by the limited number of criminal prosecutions and convictions," and urged prosecution of perpetrators and accomplices "including persons in positions of command and those who provided legal cover"; the criminal review closed without charges and no new investigations were opened (CAT/C/USA/CO/3-5, ¶¶ 11–12). See Appendix A, rows 3–4. ↩ text

12. Imputation. Plane A: the right to complain and to prompt impartial examination (art. 13); the duty to investigate (art. 12) and to criminalize and prosecute torture (arts. 4–7; jus cogens). Plane B: no offense denominating domestic official torture as torture; no private power to compel prosecution; functional prosecutorial immunity for the charging decision. Divergence and imputed violation: on the facts this manual follows — documented information supplying reasonable grounds, met by no prompt and impartial examination — the failure to provide the investigation and examination Articles 12 and 13 require, and the resulting impunity; a good-faith, evidence-based decision not to charge after such an investigation would not, without more, constitute the violation. Duty-bearers, split by wrong: for the underlying torture, the State and the perpetrator concurrently (personal criminal responsibility grounded in applicable law, preserved by ARSIWA art. 58); for the remedial wrong imputed here — the failure of the investigation, examination, and prosecution architecture — the United States, to whom Articles 4 through 7, 12, and 13 run. Neither track, in fact, answers for the wrong as such. Structural impunity of the kind an Article 20 record documents. ↩ text

13. Access to justice with reasonable accommodation is comparatively firm in *state* court: Title II of the Americans with Disabilities Act reaches state and local courts as a valid guarantee of the fundamental right of court access (*Tennessee v. Lane*, 541 U.S. 509 (2004)), alongside Section 504 of the Rehabilitation Act where its funding

[1] Clarification of the concurrency spine. The split assigns each wrong to its actual duty-bearer and narrows nothing. The remedial duties — to legislate redress, investigate, examine complaints, and operate prosecutorial and judicial institutions — run to the United States, and their breach is imputed to it alone (ILC arts. 4, 31). The individual perpetrator's concurrent responsibility for the underlying torture — criminal under applicable law, civil where an independently available cause of action supplies it — is preserved in full by the saving clause (ARSIWA art. 58) and is neither enlarged by, nor absolved through, the State's separate remedial failures; the answering of either never absolves the other. Whether a given official's own conduct or acquiescence satisfies Article 1 or Article 16 on a particular record, including under the United States' Understanding II(1)(d) (prior awareness plus breach of the legal responsibility to intervene), remains an element-specific determination.

conditions are met, state disability law, and constitutional court-access guarantees. In *federal* court — where a survivor suing a federal officer stands — Title II does not apply to the federal judiciary by its terms, and Section 504 is not generally treated as running against the federal courts; accommodation rests on the Judiciary's own policy — the Judicial Conference's resolution that all federal courts provide reasonable accommodations to persons with communications disabilities (Rep. of the Proceedings of the Judicial Conference of the U.S. 75 (Sept. 1995)), implemented at Guide to Judiciary Policy, vol. 5, ch. 2, § 255 (sign-language interpreters and other auxiliary aids for participants who are deaf, hearing impaired, or have communications disabilities) — together with the due-process and meaningful-access guarantees and the court's inherent authority. For many non-communication disabilities, no uniform federal statutory standard, independent appeals process, or enforceable cause of action corresponds to Title II's state-court protection; accommodation is largely a matter of individual court administration and discretion. The Convention on the Rights of Persons with Disabilities (Dec. 13, 2006, 2515 U.N.T.S. 3), Article 13 (access to justice), states the international standard; the Institute uses it as persuasive interpretive guidance and as evidence of the contemporary access-to-justice benchmark. Separately, United States signature engages the customary international-law duty, reflected in Article 18 of the Vienna Convention on the Law of Treaties (May 23, 1969, 1155 U.N.T.S. 331), to refrain from acts that would defeat the CRPD's object and purpose pending a definitive decision on ratification — a negative interim obligation, not the equivalent of ratification or full domestic implementation of Article 13, which the United States has signed but not ratified. ↩ text

14. The stigmatizing declaration issues, in California, under the vexatious-litigant statute (Code Civ. Proc. §§ 391 et seq.), or in federal court by a pre-filing injunction resting on the court's inherent authority and the All Writs Act (28 U.S.C. § 1651), with dismissal or sanctions separately available under Rule 11 and — for a survivor who, like this one, proceeds in forma pauperis — 28 U.S.C. § 1915(e); each may be entered against filings produced under the very conditions the court's denial of accommodation created. These judicially-imposed measures are "sanctions" within the United States' own Understanding II(1)(c), which concedes that domestic sanctions cannot defeat the object and purpose of the Convention (note 16). The Institute's test is element-specific, not categorical: such an order does not implicate the Convention merely because it is adverse or even erroneous; it may cross the United States' own stated limit where, after notice, it is used to maintain, compound, conceal, or foreclose remedy for severe harm, exploits known vulnerability, defeats effective access to protection, and satisfies the applicable severity, purpose, knowledge, causation, and official-involvement elements — as on the facts this manual follows. ↩ text

15. Whether cumulative, purposive infliction of severe suffering on a disabled survivor — through engineered default, denial of access, and stigmatizing declaration — crosses the threshold of Article 1 torture or Article 16 ill-treatment is reached on the facts of a given record and is not presumed. The prohibition is setting-unconfined: it is not limited to custody, and the United States "understanding" that would confine torture to persons in physical control does not bind the Institute's determination. ↩ text

16. Absolute judicial immunity is applied categorically, shielding acts done in a judicial capacity however grave, subject only to the narrow exceptions of non-judicial acts and complete absence of all jurisdiction (*Stump v. Sparkman*, 435 U.S. 349, 356–57 (1978); *Mireles v. Waco*, 502 U.S. 9, 11–12 (1991) (per curiam)). These holdings establish a categorical doctrine whose terms would ordinarily foreclose a damages claim even where later analysis characterizes the conduct as torture; neither adjudicated whether that result survives an established Article 1 finding and the peremptory status of the prohibition. Contrary authorities are recorded with their holdings on the table: *Jurisdictional Immunities of the State (Germany v. Italy)*, Judgment, 2012 I.C.J. 99 (Feb. 3), concerns the immunity of a foreign *State* (sovereign immunity), not the personal immunity of a judge; *Jones v. United Kingdom*, App. Nos. 34356/06 & 40528/06 (ECtHR, 14 Jan. 2014), concerns State and official immunity in a third State's civil courts — contrary and highly relevant, but not deciding the distinct domestic question. On whether jus cogens displaces immunity, the ILC's 2022 Conclusions leave the question open: Draft Conclusion 22 is "without prejudice" to the consequences of particular peremptory norms for such questions as immunity (Conclusion 23 governs the annex of norms, which includes the prohibition of torture). The Institute reaches its determination by its own investigation; these authorities support or fail to support it, and none decides the domestic question. Two commitments in the deposited instrument bear directly on the courtroom. Understanding II(1)(c) defines "sanctions" to include judicially-imposed sanctions and enforcement actions authorized by law or by judicial interpretation — the vexatious-litigant declaration and the pre-filing injunction are within the definition — and then concedes that a State Party "could not through its domestic sanctions defeat the object and purpose of the Convention to prohibit torture": the United States' own understanding marks the line those sanctions cross when they are deployed to foreclose the torture claim itself. One further contrary passage is recorded from the same source that carries the equivalence representation: the Senate report's Article 14 analysis states that "[t]here is no indication in the legislative history that Article 14 was intended to affect the immunities from civil jurisdiction and liability that States and certain individuals enjoy" (S. Exec. Rep. No. 101-30, at 24 (1990) (Summary and Analysis, Article 14)). The Institute records that position expressly and classifies it: it is contrary ratification history, not the deposited international commitment, and it adjudicates nothing — least of all whether an immunity survives an established finding of torture. It predates the Committee's interpretation of Article 14 in General Comment No. 3, which identifies immunities among the impermissible obstacles to redress (note 17); it cannot enlarge the deposited Understanding II(1)(c), under which domestic sanctions cannot defeat the object and purpose of the Convention; and it does not displace the Institute's independent determination. Recorded and answered, it leaves the determination standing. On acquiescence, the source-status of the tests must be kept straight. The Institute's controlling standard is its own, aligned with the Committee against Torture rather than with the United States' restrictive ratification gloss: judicial acquiescence may be established where a court has notice of torture, ill-treatment, or severe foreseeable harm, possesses authority to act, and fails to prevent, investigate, exclude, or remedy it; where the judicial process itself knowingly maintains or compounds the harmful conditions, the court may be the direct instrument of the prohibited treatment rather than a mere acquiescer. Four tiers are kept distinct: direct judicial infliction; the court process as instrument of harm after notice; judicial acquiescence; and — the finding this instrument documents — systemic acquiescence joined to equivalence failure. Understanding II(1)(d), defining acquiescence as prior awareness of the activity plus breach of the legal responsibility to intervene, is not the source of the Institute's standard; it is the United States' own concession, and it supplies an alternative minimum route the record here also satisfies: the non-self-executing declaration was predicated on the represented equivalence of existing federal and state law (note 3), placing the courts — designated implementers under Understanding II(5) and custodians of the represented remedies — under a responsibility to intervene that the equivalence representation itself assigned; where the judicial system, repeatedly presented with credible, documented allegations furnishing reasonable grounds to believe that torture, ill-treatment, or severe foreseeable harm has occurred or continues (awareness), neither ensures the represented equivalent nor adjudicates the Convention proper, and instead answers the attempt with the frivolous and vexatious brand (breach), the closure of both routes constitutes systemic acquiescence by the State's judicial organ — attributable to the United States (ILC art. 4), satisfying the acquiescence mode of the Article 1 and Article 16 analysis at the systemic level on the elements, not by presumption, and supplying the official-tolerance component of the systematic character relevant to Article 20. The Institute's amicus curiae brief in *In re K.N.* states the same position: judicial inaction before credible evidence of torture or ill-treatment "may itself be characterized ... as the 'acquiescence' that transforms passive observers into participants." The systemic finding is the State's; whether a given officer's own conduct or acquiescence satisfies the elements on a particular record remains, per note 15, a question of evidence. ↩ text

17. Two consequences must be kept apart. (a) *Criminal accountability* does not halt at the Article 1 line. This is not read off the bare text of the Convention — which imports into Article 16 only Articles 10 through 13 — but from the authoritative interpretation, which is why the question cannot be decided on treaty text alone. Torture and ill-treatment lie on a continuum: the Istanbul Protocol (2022 ed., U.N. Doc. HR/P/PT/8/Rev.2, ¶¶ 7–8) records that ill-treatment differs from torture where an element of the definition — in purpose, intention, or the severity of the pain or suffering — is absent or different, and that "the definitional threshold between ill-treatment and torture is often not clear." The Committee against Torture, in General Comment No. 2 (CAT/C/GC/2, 2008), applies the Convention's prohibitions to ill-treatment as well as to torture — including, per ¶ 6, the Articles 5 through 9 provisions on jurisdiction and the obligation to prosecute or extradite — and holds, at ¶ 5, that "amnesties or other impediments which preclude or indicate unwillingness to provide prompt and fair prosecution and punishment of perpetrators of torture or ill-treatment violate the principle of non-derogability." A penal amnesty, statute of limitations, or comparable bar to *criminal* accountability for official ill-treatment is such an impediment. (b) *Personal civil-damages immunity* is a separate question. For torture, its fall-away follows from the peremptory character of the prohibition and is the Institute's settled determination. For ill-treatment short of torture, whether and on what gravity or culpability threshold personal civil immunity yields is governed by the Institute's separate CIDT determination and must be independently defined; it does not follow automatically from the criminal-accountability authority above. No limiting category of "grave" ill-treatment is supplied by the Istanbul Protocol, which speaks of penalties reflecting "the grave nature" of the acts, not of a class of "grave ill-treatment"; any such threshold the Institute adopts is its own calibration, expressly defined and justified, and not attributed to the Protocol. The concession "no penal immunity for the crime of torture" is, by its terms, criminal and torture-specific; it does not touch the civil judicial immunity that shields the robe. The State's reparation duty extends to ill-treatment by the Committee's interpretation in General Comment No. 3 (CAT/C/GC/3, 2012, ¶¶ 1, 8, 38, 40–42), which also identifies immunities, amnesties, and statutes of limitation as impermissible obstacles to redress. ↩ text

18. Imputation. Plane A: access to justice with accommodation (in state court, ADA Title II and § 504; in federal court, the thinner discretionary regime of note 13), and, for torture, under the Institute's settled peremptory-norm determination (notes 16–17), the fall-away of immunity once torture is established. Plane B: accommodation denied, default engineered, the survivor declared vexatious, immunity applied categorically. Imputed violation: denial of effective access to court and remedy and — where the threshold is met on the record — ill-treatment or torture inflicted through the judicial organ itself. Duty-bearers, concurrently: the State (its organ's conduct attributable to it, ILC art. 4; reparation, ILC art. 31; UNCAT art. 14 for torture, extended to ill-treatment by General Comment No. 3) and, for torture, the individual judicial officer, who bears personal responsibility under independently applicable criminal law and personal civil liability where an independently available cause of action supplies it — the Institute determining that immunity may not bar either otherwise-valid route, though its removal does not itself create the cause of action, which (as Step One shows) remains the missing piece. A foreclosure that, in the Institute's assessment — an assessment whose class-wide character rests on the Institute's separately documented case-pattern record, not on this instrument alone — is reproduced as a risk against disabled and self-represented survivors as a class; joined to the enabling architecture shown here, that record would feed an Article 20 showing. ↩ text

19. The mechanisms that remain accept information from individuals; no organization's sponsorship is a jurisdictional prerequisite. Standing is not the scarce thing — capacity is: corroboration, translation, preservation, aggregation, publicity, and repeated resubmission, and above all connecting a single injury to a documented pattern. Individual communications to the Committee against Torture under Article 22 are unavailable, because the United States accepted only the inter-State competence under Article 21 and never declared under Article 22 (Resolution of Ratification, Treaty Doc. 100-20; UN depositary record, MTDSG Ch. IV.9). The regional route stands apart from the Convention: as an OAS member (Charter ratified June 19, 1951), the United States is subject to the Inter-American Commission on Human Rights, which receives individual petitions alleging violations of the American Declaration of the Rights and Duties of Man (O.A.S. Res. XXX (1948)) under Article 20 of the Commission's Statute, may adopt precautionary measures, examine the merits, and issue reports with recommendations — but it renders no binding judgment, and the United States, not having ratified the American Convention on Human Rights, has accepted no route to the Inter-American Court. In Report No. 154/20 (Petition 1638-11, Admissibility, *Abou Elkassim Britel, Binyam Mohamed, Bisher Al-Rawi & Mohamed Farag Ahmad Bashmilah (United States)*, June 9, 2020), the Commission admitted the petition of four survivors of the CIA rendition program — every domestic suit having been dismissed on state-secrets, national-security, or immunity grounds before any merits were reached — holding that "the record is clear that no effective remedy is available to the Petitioners in the U.S." (¶¶ 22–23): an independent international finding of the Step One foreclosure this instrument documents. The United States opposed admissibility on the footing that the American Declaration is "non-binding" and the Commission can only issue recommendations it is not obligated to follow (¶ 18). The door that opens confirms the record and cannot command the remedy. ↩ text

20. Special Procedures — the Special Rapporteur on torture and cognate mandates — receive information from any source and may transmit allegation letters and urgent appeals, but command nothing; this is the route by which an individual's material enters the system. The Committee's Concluding Observations, following the Article 19 review, are authoritative Article 17 interpretation, not domestically enforceable judgments. Article 20 authorizes a confidential inquiry where reliable information indicates that torture is being *systematically practised*; the United States remains subject to it, having made no Article 28 declaration (verified against the UN depositary record, MTDSG Chapter IV.9). The inquiry is confidential — though, after completing it and consulting the State Party, the Committee may include a summary account of the results in its annual report (art. 20(5)) — and it addresses systematic practice, not the individual's case, yielding no judgment, conviction, or award. Three things are distinct: enabling architecture (the rules obstructing detection, investigation, remedy, and accountability); pattern evidence (documented instances showing repetition, organization, and official knowledge or acquiescence); and the Article 20 inference that torture is systematically practised. A remedial defect does not itself prove systematic practice; it explains how such practice could persist undetected. Article 20 is confined by its terms to systematic *torture*. ↩ text

21. Imputation. Plane A (the binding standard): the State must provide effective investigation, protection, redress, and fair compensation domestically (arts. 12–14, 16; ICCPR art. 2(3)) — the enforceable-remedy obligations that actually bind. The Convention's international mechanisms are, by their own terms, optional: Article 22 individual communications require an opt-in the United States did not make; Special Procedures record but cannot command; Concluding Observations are authoritative interpretation, not domestically enforceable judgments; and the Article 20 inquiry is confidential, systemic, and individually non-remedial. Plane B: the United States has not fully implemented the binding domestic duties through a complete, direct, individually enforceable, treaty-conforming system, and has also declined the optional Article 22 route; the regional petition route that remains open (note 19) yields recommendations the United States itself insists are non-binding (Report No. 154/20, ¶ 18), so no external avenue available against it supplies the individual an enforceable adjudication, conviction, compensation award, or compulsory domestic remedy. Imputed violation: the breach lies in the failure to furnish the required domestic protection and redress; the declined and non-remedial international mechanisms are not themselves an independent treaty breach merely because the Convention permits them — they compound and reveal the closed circuit. Duty-bearer: the United States. ↩ text

22. Under Article 21, a State Party that has recognized the competence — as the United States has, subject to reciprocity — may bring to the Committee a claim that another such State is failing to fulfill the Convention. The procedure is one of confidential communication, negotiation, and good offices, culminating (only with both States' consent) in an ad hoc conciliation commission that issues a report. It produces no judgment, orders nothing, and awards the individual nothing. ↩ text

23. Article 30(1) provides that an inter-State dispute over interpretation or application not settled by negotiation shall, at a party's request, go to arbitration and, failing agreement on its organization within six months, may be referred to the International Court of Justice. The United States, by Reservation I(2) under Article 30(2), declared that it does not consider itself bound by Article 30(1), reserving only the right to agree case by case (Treaty Doc. 100-20; UN depositary record, MTDSG Ch. IV.9). A foreign sovereign therefore cannot compel the United States to the Court under the Convention. ↩ text

24. An advisory opinion is a distinct function under Article 96 of the United Nations Charter, requestable only by the General Assembly, the Security Council, or an authorized organ or agency — never by an individual, and not by a State in its own name; a sympathetic State could only persuade an authorized United Nations organ to request one, most plausibly by securing the necessary votes for a General Assembly resolution (a majority of members present and voting, subject to the applicable threshold). An advisory opinion does not bind. ↩ text

25. Even a favorable contentious judgment would not reach the survivor: *Medellin v. Texas*, 552 U.S. 491, 504–05 (2008), holds that a judgment of the International Court of Justice is not automatically domestic law and creates no domestically enforceable rule absent implementing action by the political branches. The instruction that began with a personal right ends where the fine print began — the cure assigned to a Congress that has not acted. ↩ text

26. Imputation. Plane A (the binding standard): the State must furnish effective domestic protection and redress for a peremptory-norm violation (arts. 12–14, 16; ICCPR art. 2(3)). The Convention's inter-State and judicial mechanisms are optional by their own terms: Article 21 is opt-in and reciprocal, Article 30(1) is expressly reservable under Article 30(2), and the advisory function is unavailable to the individual. Plane B: the United States accepted Article 21 (conciliatory only), reserved against Article 30(1) as the Convention permits, and no advisory route is open to the individual — while failing to implement the complete and direct domestic remedy that Articles 12–14 and its own Article 14 understanding require. Imputed violation: the breach lies in the failure to provide the required domestic protection and redress; the non-self-executing declaration, maintained without complete and effective implementing equivalence, prevents the Convention itself from curing that failure; the United States' permissible international choices are not an independent treaty breach, but together they complete and reveal a closed circuit in which a non-derogable personal right is, in administered fact, individually unenforceable at every tier. Duty-bearer: the United States, through the non-self-executing declaration, legislative inaction, and the reservations that foreclose external review. The most complete instance of the enabling architecture an Article 20 showing would rest upon. ↩ text

27. Assembled, the steps are a single structural condition. State and individual responsibility are concurrent and complementary, never alternatives: the ILC's saving clause (ARSIWA art. 58) creates no cause of action but preserves individual responsibility, arising independently under other law, from being displaced by the attribution of the same conduct to the State. The State bears responsibility and owes reparation (ILC arts. 4, 31; ICCPR art. 2(3); UNCAT art. 14); the individual bears personal responsibility grounded in applicable criminal law and, where the law provides, civil liability. The domestic architecture defeats both: the State may answer under a sovereign-immunity waiver, a constitutional analogue, or an ordinary tort rule, but no general domestic instrument requires it to answer for the UNCAT violation as such, and no international judgment automatically supplies the survivor a domestically enforceable rule of decision absent implementing law; the individual may answer under § 1983, ordinary criminal law, or another independently available cause of action, but UNCAT itself supplies no domestic action and no authority over prosecution, and immunity, discretion, and the missing cause of action shield the natural person from answering for the treaty wrong. And the architecture defeats not only the treaty's promise but the government's own, professed to the Committee across a quarter-century (note 1; Appendix A). The weld that closes the structure is the equivalence predicate: the missing cause of action (Step One), the unanswerable

complaint (Step Two), and the frivolous-and-vexatious branding with accommodation denied (Step Three) are not three separate defects but three expressions of one condition — the judicial system on whose represented adequacy the entire remedial withholding rests (note 3) delivering neither the equivalent nor the treaty, which is the systemic acquiescence the Institute determines at note 16. One element of this condition — the procedural complexity that walls out the self-represented — is corroborated from inside the profession. John Fitzgerald Molloy — an Arizona trial judge from 1957 to 1964 and an appellate judge from 1965 to 1969, who then returned from the bench to private practice — records in *The Fraternity: Lawyers and Judges in Collusion* (Paragon House 2004) that procedural complexity "has been brought into being always with the assertion that it is to better 'the system'"; that "[t]he more complicated the procedure is, the less lay persons can do for themselves, and the more important lawyers, members of this legal Fraternity, become," self-representation "pro per" having "now become a bizarre event" (*id.* at 6); and, of a long-arm procedural rule he personally co-drafted, that "we were not consciously trying to draft a rule with which only anointed members of our Fraternity could cope, but, nicely, that was the fortunate—for the Fraternity—result. Plaintiffs-without-lawyers would seldom cope with this gem of new law," the rule as adopted being "usable by members of the Fraternity, but pretty much beyond use by the noninitiated" (*id.* at 111–12). The Institute weighs this as bounded insider testimony — one judge's retrospective and polemical account, probative of mechanism rather than of prevalence or of conscious design, which in the drafting episode quoted he expressly disclaims — and takes from it a single corroboration: the procedural complexity that closes each door above on the self-represented survivor is recorded, by a member of the profession that built it, confessing himself its beneficiary, as a constructed condition. The survivor should accordingly treat procedural obstruction not as personal inadequacy but as a documented condition of the architecture this instrument maps — the same systemic condition the Institute documents in *The Structural Foreclosure of Effective Protection and Remedy for Rights-Violating Judicial Conduct in the Courts of the United States of America* — and should document each instance encountered: classified against the elements and aggregated with comparable records, such instances supply the pattern evidence from which systemic foreclosure is demonstrated (notes 18, 20). Molloy is cited for that mechanism alone; the Institute's legal determinations, the Article 20 analysis, and its systemic findings rest on the legal architecture and the Institute's separately documented record, not on his account. ↩ text

28. What would close the gap is legislative and executive, as *Medellin* assigns it. First, implement the individual rights and remedial duties the Convention creates — the redress and compensation right (art. 14), the complaint and prompt-impartial-examination right (art. 13), and the Article 16 obligations — through express domestic causes of action and review, while implementing by other appropriate means the preventive, jurisdictional, training, and evidentiary duties that do not sensibly become personal suits. Second, enact a comprehensive federal offense of torture conforming to Article 1 for torture committed by public officials within the United States — reaching complicity, ordering, and superior responsibility; carrying penalties reflecting the gravity of the act; with complete jurisdiction; barred by no statute of limitations, amnesty, or immunity. Third, create an express private right of action for damages for torture — the action the United States represented Article 14 to require — and, separately grounded in General Comment No. 3 and effective-remedy law, a corresponding action for cruel, inhuman or degrading treatment; provide that for torture no immunity shields the individual perpetrator (the CIDT civil-immunity consequence being governed by the Institute's separate determination), the State's reparation obligation running concurrently. Fourth, establish enforceable Article 12–13 procedures: a right to file; mandatory acknowledgment and evidence preservation; prompt, independent, impartial investigation; a reasoned disposition; anti-retaliation protection; and limited judicial review or mandamus for non-performance — with victim participation but no unilateral charging authority. Fifth, enact an enforceable federal-judiciary disability-accommodation statute with independent review. Sixth, withdraw or narrow Reservation I(1) so that Article 16 is honored as the distinct, non-derogable, setting-unconfined obligation it is, and withdraw the understanding confining Article 1 torture to persons in the offender's custody or physical control, or enact legislation ensuring that official torture is prohibited wherever the Article 1 elements are otherwise established. Seventh, accept the Committee's Article 22 individual-communication competence and withdraw Reservation I(2) to Article 30(1). Eighth, give domestic legal effect to the Committee's Views in an accepted Article 22 case and to any judgment of the International Court of Justice binding the United States, and require courts and agencies to give Concluding Observations reasoned consideration and specified interpretive weight — distinguishing those instruments rather than making every Concluding Observation automatically operative. ↩ text

Appendix A — The Promise in the Government's Own Words

A Verbatim Catalogue of United States Commitments on Torture and CIDT, Set Against the Committee's Findings of Divergence

This appendix is a self-contained evidentiary reference. It may be used independently of the narrative by any researcher, advocate, complainant, court, or treaty body requiring the verbatim, publicly-stated position of the United States on torture and cruel, inhuman or degrading treatment (CIDT), set against the findings of the body charged with monitoring the Convention. It covers the United States' periodic reporting record, 1999–2021 — the Initial Report (1999), Second Periodic Report (2005) with the 2006 written responses, Combined Third to Fifth Periodic Reports (2013) with the replies to the list of issues and the delegation's opening statement of 12 November 2014, and the Sixth Periodic Report (2021) — set against the Committee's Concluding Observations of 2006 and 2014. Every passage in quotation marks is reproduced from the official source cited, in each case a United States Government submission (a public record) or a United Nations treaty-body document.

A.1 Paired Catalogue — Verbatim Commitment Against Contradicting Reality or Finding

Each row pairs a verbatim United States commitment (left) with the contradicting reality or Committee finding (right), each attributed. The table is a working index to the record; it does not replace it. Torture (Article 1) and ill-treatment (Article 16) are kept analytically distinct throughout.

#	Verbatim United States commitment (source)	Contradicting reality or Committee finding (source)
1	"No exceptional circumstances may be invoked as a justification of torture." (CAT/C/28/Add.5, ¶ 6)	Executive Branch legal memoranda advised that techniques amounting to torture could be authorized (CAT/C/USA/CO/3-5, ¶ 10); necessity and self-defense appear in the Office of Legal Counsel memoranda of 1 Aug. 2002, documented in the SSCI study (2014).
2	"Every act constituting torture … constitutes a criminal offence under the law of the United States." (CAT/C/28/Add.5, ¶ 6); "already punishable" (CAT/C/USA/6, ¶ 8)	"The specific offence of torture has not yet been introduced at the federal level"; recommended in 2000, 2006, and 2014 (CAT/C/USA/CO/3-5, ¶ 9).
3	"There is no 'penal immunity' for any person for the crime of torture under U.S. law." (U.S. Response, 2006)	"Ongoing failure … to fully investigate … evidenced by the limited number of criminal prosecutions and convictions"; the Justice Department decided, on the Durham review, not to prosecute (CAT/C/USA/CO/3-5, ¶ 12).
4	"We will … investigate and prosecute all acts of torture … in all territory under our jurisdiction." (2005 Report, Presidential statement)	Command-level and legal-adviser responsibility not prosecuted; the Committee urged prosecution of perpetrators and accomplices "including persons in positions of command and those who provided legal cover" (CAT/C/USA/CO/3-5, ¶ 12).
5	"Torture … [is] prohibited at all times in all places." (McLeod, 12 Nov. 2014); obligations extend to "all	2006: the delegation argued the Convention did not apply at Guantánamo, in Afghanistan, or Iraq

#	Verbatim United States commitment (source)	Contradicting reality or Committee finding (source)
	places that the State Party controls" (CAT/C/USA/6, ¶ 9)	(CAT/C/SR.703); the reservation still appears in the torture memoranda (CAT/C/USA/CO/3-5, ¶ 10).
6	Article 16 obligation limited to "the cruel, unusual, and inhumane treatment … prohibited by the Fifth, Eighth, and/or Fourteenth Amendments." (U.S. Response, 2006; maintained CAT/C/USA/6, ¶ 8)	Reservation "could permit interpretations incompatible with the absolute prohibition" and remains unwithdrawn (CAT/C/USA/CO/3-5, ¶ 10).
7	"[The United States] does not transfer persons to countries where … 'more likely than not' … tortured." (2006/2013 Replies)	Committee "remains disturbed" by reports of post-transfer abuse; non-refoulement "should always have precedence" (CAT/C/USA/CO/3-5, ¶ 16).
8	Detention at Guantánamo asserted lawful under the law of war (U.S. position, 2014 review)	"Indefinite detention without charge constitutes, per se, a violation of the Convention"; force-feeding is "ill-treatment" (CAT/C/USA/CO/3-5, ¶ 14).
9	"No systematic use of solitary confinement" (U.S. statement, as recorded by the Committee)	"Full isolation of 22 to 23 hours a day in super-maximum security prisons is unacceptable" (CAT/C/USA/CO/3-5, ¶ 20).
10	Torture "does not occur in the United States except in aberrational situations and never as a matter of policy." (CAT/C/28/Add.5, ¶ 11)	Chicago police torture (1972–1991): "no police officer has been convicted … due to the statute of limitations"; most victims uncompensated (CAT/C/USA/CO/3-5, ¶ 26).

A.2 Principal Primary Sources

United States submissions: Initial Report (CAT/C/28/Add.5, 1999/2000); Second Periodic Report (CAT/C/48/Add.3, 2005), with the United States Written Response to Questions Asked by the Committee Against Torture (Apr. 28, 2006; Department of State publication); Combined Third to Fifth Periodic Reports (CAT/C/USA/3-5, 2013), with the replies to the list of issues and the delegation's opening statement of 12 November 2014 (Acting Legal Adviser M. E. McLeod); Sixth Periodic Report (CAT/C/USA/6, 2021). Committee documents: Concluding Observations of 2006 (CAT/C/USA/CO/2) and 2014 (CAT/C/USA/CO/3-5); summary record of the 2006 review (CAT/C/SR.703); General Comment No. 2; General Comment No. 3. Interpretive standard: the Istanbul Protocol (2022, U.N. Doc. HR/P/PT/8/Rev.2). Statutory and executive instruments: 18 U.S.C. §§ 2340–2340A; Detainee Treatment Act of 2005, § 1003; Office of Legal Counsel memoranda (1 August 2002 and successors); Senate Select Committee on Intelligence study (declassified summary released 9 December 2014).

A.3 Evidentiary Caveats and Status

(i) Every passage in quotation marks above is reproduced from the official source cited; United States Government submissions are public records, and the Committee's documents are United Nations treaty-body records. (ii) The 2006 Concluding Observations (CAT/C/USA/CO/2) have been verified against the United Nations record; the paragraphs relied upon (13, 15, 16, 22) reflect that record, and paragraph 22's quoted language is verbatim. (iii) The Senate Select Committee on Intelligence study is a United States Senate committee product — its declassified summary is public and the full report remains classified; its conclusions are attributed to that source, not adopted as findings of the Institute. (iv) The Committee against Torture is the expert body established under Article 17 to monitor implementation through the Article 19 reporting process; its Concluding Observations are authoritative treaty-body assessments, which the Institute treats for its institutional purposes as authoritative Article 17 interpretation, and highly probative monitoring evidence — not binding judgments — and the United States has contested aspects of the Committee's interpretive authority. (v) This appendix imputes the systematic accountability failure and the divergence between the United States' commitments and their non-fulfillment; it does not, and on this record cannot, pronounce the criminal guilt of any named or categorical individual, which remains for element-specific investigation and adjudication with due process. (vi) Provenance: this appendix is incorporated from the Institute's verified CAT-record module, the factual assertions of which were verified against primary United Nations and United States Government sources on 1 July 2026, each recorded with its official access point in that module's source register.

Note on Register, Accessibility, and Impartiality

This instrument employs a satirical-analytical register because the contradiction it examines can be stated more directly, intelligibly, and memorably through the form of an instructional guide than through conventional doctrinal exposition alone. The Institute's ordinary publications are necessarily detailed, technical, and densely sourced; that form serves legal precision, but it can remain inaccessible to much of the public whose rights and institutions are its subject. Human-rights knowledge cannot perform its preventive function if it is intelligible only to specialists. This instrument accordingly layers the two: a plain-language narrative for the general reader, and full legal analysis in the numbered Analytical Notes and Appendix A for the specialist, the advocate, and the treaty body.

The satire is a method of public legal education, not a departure from rigor. It translates a complex remedial architecture into a sequence an ordinary person can follow: the individual is told that the right against torture is absolute and personal, yet each supposed means of enforcing it is placed under the control of another institution and terminates without a complete, direct, and personally enforceable remedy. The absurdity exposed is the contradiction within that architecture — not the suffering of survivors, the prohibition of torture, or the seriousness of the questions presented. The satire is directed at the documented architecture and its contradictions; no person is ridiculed. The Institute may properly criticize official conduct and, on the evidence, determine individual responsibility; what the register disclaims is ridicule and the prejudgment of persons, not accountability.

The register does not alter the Institute's evidentiary or adjudicative standards. Every factual assertion remains subject to verification; every legal proposition remains subject to primary and contrary authority; every classification of conduct as torture or as cruel, inhuman or degrading treatment remains element-specific; and no individual's responsibility is presumed — individual conduct remains subject to evidence-specific determination. The instructional voice does not predetermine the findings. It makes the documented divergence between the right professed and the remedy administered visible to readers who might not otherwise encounter or understand it

— in furtherance of the Institute's independent truth-finding and educational functions, and consistent with the same independence, impartiality, accuracy, and due-process safeguards that govern every Institute publication.

Instrument Data

Structure. This version layers a plain-language public narrative over a body of numbered Analytical Notes and Appendix A. The Institute's four-plane architecture — binding standard (Plane A), administered reality (Plane B), documented divergence, and imputation with a named duty-bearer — is carried in the step-imputation Notes (8, 12, 18, 21, 26) and throughout the analytical Notes, rather than in the narrative.

Evidentiary caveats and verification status. The United States reservations, understandings, and declarations are drawn from the Senate resolution of ratification (Treaty Doc. 100-20) as reproduced in the Congressional Record and the UN treaty-body record; the non-opt-out of the Article 20 inquiry procedure (no Article 28 declaration) is verified against the primary UN depositary record (MTDSG Chapter IV.9) and corroborated by the OHCHR list of Article 20 opt-out States, which omits the United States. Case holdings (*Medellin*, *Bivens*, *Abbasi*, *Egbert*, *Goldey*, *Iqbal*, *Sosa*, *Linda R.S.*, *Castle Rock*, *Imbler*, *Stump*, *Mireles*, *Tennessee v. Lane*, *Monell*, *Pembaur*, *Taylor v. Riojas*) were verified as to name, citation, and holding characterization. The torture/ill-treatment continuum and the extension of criminal-accountability obligations to ill-treatment are grounded in the Istanbul Protocol (2022) and the Committee's General Comment No. 2; the redress extension to ill-treatment in General Comment No. 3. The verbatim United States commitments and paired Committee findings are incorporated from the Institute's CAT-record module, verified against primary United Nations and United States Government sources on 1 July 2026. The equivalence representation is now verified against, and quoted directly from, S. Exec. Rep. No. 101-30 (1990) itself, retrieved in full (Declarations discussion; Summary and Analysis, Article 4 and Article 14; app. B, letter of Apr. 4, 1990); the sentence previously quoted from the Institute's amicus curiae brief in *In re K.N.*, No. 24-0881 (Tex.), is recorded as that brief's paraphrase of this record, and the page pinpoints (pp. 10, 20, 24, 41) are verified against the printed facsimile of the report, each passage confirmed on the page image bearing its printed folio. The deposited-instrument Understandings II(1)(c), II(1)(d), and II(5) are quoted from the UN depositary record and match the Treaty Doc. 100-20 record previously verified. The 2006 "no penal immunity" answer is cited to the United States Written Response to Questions Asked by the Committee Against Torture (Apr. 28, 2006), a Department of State publication carrying no United Nations document symbol, restated orally at the 5 May 2006 review (CAT/C/SR.703). The federal Judiciary's accommodation policy is cited to the Report of the Proceedings of the Judicial Conference of the United States 75 (Sept. 1995) and Guide to Judiciary Policy, vol. 5, ch. 2, § 255. *Taylor v. Riojas* is completed at 592 U.S. 7 (2020). The Senate report's contrary Article 14 immunity statement is recorded and answered at note 16 under the Institute's contrary-authority discipline. The quotations from John Fitzgerald Molloy, *The Fraternity: Lawyers and Judges in Collusion* (Paragon House 2004), at pages 6 and 111–12, were verified verbatim against the printed page images of the 2004 edition. No [VERIFY] flags or unconfirmed quotations remain outstanding. Pinpoint citations to the principal treaty-body and primary sources (General

Comment No. 2, ¶¶ 5–6; General Comment No. 3; the Istanbul Protocol; the Article 20(5) summary-account provision; the United States Article 21 declaration and Article 30 reservation) are included in the Analytical Notes, and first references to the principal international instruments (the Convention; the ICCPR; the VCLT; the CRPD; the ILC Articles on State Responsibility; the Istanbul Protocol, U.N. Doc. HR/P/PT/8/Rev.2; the ILC 2022 Conclusions, U.N. Doc. A/77/10) carry full citations; citation styling is complete. Each superscript note-marker is a working internal hyperlink to its Analytical Note.

How to Personally Enforce the Torture Convention: A Practical Guide, in Impossible Steps, to Vindicating a Non-Derogable Personal Right Under United States Law

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