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# Rule 52. Pillage

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**Rule 52. Pillage is prohibited.**

## Practice

Volume II, Chapter 16, Section D.

## Summary

State practice establishes this rule as a norm of customary international law applicable in both international and non-international armed conflicts.

## International armed conflicts

The prohibition of pillage is a long-standing rule of customary international law already recognized in the Lieber Code, the Brussels Declaration and the Oxford Manual.<sup>[1]</sup> Pillage is prohibited under all circumstances under the Hague Regulations.<sup>[2]</sup> Pillage is identified as a war crime in the Report of the Commission on Responsibility set up after the First World War, as well as by the Charter of the International Military Tribunal (Nuremberg) established following the Second World War.<sup>[3]</sup> The Fourth Geneva Convention also prohibits pillage.<sup>[4]</sup> Under the Statute of the International Criminal Court, “pillaging a town or place, even when taken by assault,” constitutes a war crime in international armed conflicts.<sup>[5]</sup>

The prohibition of pillage is set forth in numerous military manuals.<sup>[6]</sup> Pillage constitutes an offence under the legislation of a large number of States.<sup>[7]</sup> This prohibition has been enforced in several cases before

national courts after the Second World War,[8] as it has by the International Criminal Tribunal for the former Yugoslavia.[9] The prohibition of pillage has been supported by official statements and other practice.[10]

## Non-international armed conflicts

Pillage is prohibited under Additional Protocol II.[11] Under the Statute of the International Criminal Court, “pillaging a town or place, even when taken by assault,” constitutes a war crime in non-international armed conflicts.[12] Pillage is also included as a war crime in the Statutes of the International Criminal Tribunals for the former Yugoslavia and for Rwanda and of the Special Court for Sierra Leone.[13]

The prohibition of pillage is set forth in military manuals which are applicable in or have been applied in non-international armed conflicts.[14] Pillage is an offence in any armed conflict under the legislation of many States.[15] In its judgment in the *Military Junta case* in 1985, Argentina’s National Court of Appeals applied the prohibition of pillage in the Hague Regulations to acts committed in the context of internal violence.[16] The prohibition of pillage has been supported by official statements and other practice in the context of non-international armed conflicts.[17]

No official contrary practice was found with respect to either international or non-international armed conflicts. Alleged violations of this rule have generally been condemned by States.[18] They have also been condemned by the United Nations and other international organizations.[19] In most cases, they have been denied or recognized as unlawful by the parties involved.[20] In another instance the authorities expressed their inability to impose discipline on their troops.[21]

The Plan of Action for the years 2000–2003, adopted by the 27th International Conference of the Red Cross and Red Crescent in 1999, requires that all the parties to an armed conflict ensure that “strict orders are given to prevent all serious violations of international humanitarian law, including ... looting”.[22]

The specific practice collected with respect to pillage of cultural property (see Rule 40) and of property of the wounded and sick (see Rule 111), the dead (see Rule 113) and persons deprived of their liberty (see Rule 122) should also be considered in the assessment of the customary nature of this rule.

## Definition

Pillage (or plunder) is defined in Black’s Law Dictionary as “the forcible taking of private property by an invading or conquering army from the enemy’s subjects”.[23] The Elements of Crimes of the Statute of the International Criminal Court specifies that the appropriation must be done “for private or personal use”. [24] As such, the prohibition of pillage is a specific application of the general principle of law prohibiting theft. This prohibition is to be found in national criminal legislation around the world. Pillage is generally punishable under military law or general penal law.

[1] - Lieber Code, Article 44 (cited in Vol. II, Ch. 16, § 470); Brussels Declaration, Article 18 (*ibid.*, § 471) and Article 39 (*ibid.*, § 472); Oxford Manual, Article 32 (*ibid.*, § 473).

[2] - Hague Regulations, Article 28 (*ibid.*, § 461) and Article 47 (*ibid.*, § 462).

[3] - Report of the Commission on Responsibility (*ibid.*, § 475); IMT Charter (Nuremberg), Article 6(b) (punishing “plunder”) (*ibid.*, § 465).

[4] - Fourth Geneva Convention, Article 33, second paragraph (*ibid.*, § 466).

[5] - ICC Statute, Article 8(2)(b)(xvi) (*ibid.*, § 468).

[6] - See, e.g., the military manuals of Argentina (*ibid.*, §§ 486–487), Australia (*ibid.*, §§ 488–489), Belgium (*ibid.*, §§ 490–491), Benin (*ibid.*, § 492), Burkina Faso (*ibid.*, § 493), Cameroon (*ibid.*, §§ 494–495), Canada (*ibid.*, §§ 496–497), China (*ibid.*, § 498), Colombia (*ibid.*, §§ 499–500), Congo (*ibid.*, § 501), Croatia (*ibid.*, §§ 502–503), Dominican Republic (*ibid.*, § 504), Ecuador (*ibid.*, § 505), El Salvador (*ibid.*, § 506), France (*ibid.*, §§ 507–510), Germany (*ibid.*, §§ 511–512), Indonesia (*ibid.*, §§ 513–514), Israel (*ibid.*, §§ 515–516), Italy (*ibid.*, §§ 517–518), Kenya (*ibid.*, § 519), Republic of Korea (*ibid.*, §§ 520–521), Madagascar (*ibid.*, § 522), Mali (*ibid.*, § 523), Morocco (*ibid.*, § 524), Netherlands (*ibid.*, §§ 525–526), New Zealand (*ibid.*, § 527), Nigeria (*ibid.*, §§ 528–531), Peru (*ibid.*, § 532), Philippines (*ibid.*, §§ 533–534), Russian Federation (*ibid.*, § 535), Senegal (*ibid.*, §§ 536–537), South Africa (*ibid.*, § 538), Spain (*ibid.*, § 539), Sweden (*ibid.*, § 540), Switzerland (*ibid.*, § 541), Togo (*ibid.*, § 542), Uganda (*ibid.*, §§ 543–544), United Kingdom (*ibid.*, §§ 545–546), United States (*ibid.*, §§ 547–552) and Yugoslavia (*ibid.*, § 553).

[7] - See, e.g., the legislation of Albania (*ibid.*, § 554), Algeria (*ibid.*, § 555), Australia (*ibid.*, §§ 557–559), Azerbaijan (*ibid.*, §§ 560–561), Bangladesh (*ibid.*, § 562), Bosnia and Herzegovina (*ibid.*, § 563), Brazil (*ibid.*, § 564), Bulgaria (*ibid.*, § 565), Burkina Faso (*ibid.*, § 566), Cameroon (*ibid.*, § 568), Canada (*ibid.*, §§ 569–570), Chad (*ibid.*, § 571), Chile (*ibid.*, § 572), China (*ibid.*, §§ 573–574), Colombia (*ibid.*, § 576), Democratic Republic of the Congo (*ibid.*, § 577), Congo (*ibid.*, § 578), Côte d'Ivoire (*ibid.*, § 579), Croatia (*ibid.*, § 580), Czech Republic (*ibid.*, § 581), Ecuador (*ibid.*, § 582), Egypt (*ibid.*, § 583), El Salvador (*ibid.*, §§ 584–585), Estonia (*ibid.*, § 586), Ethiopia (*ibid.*, § 587), France (*ibid.*, § 588), Gambia (*ibid.*, § 589), Georgia (*ibid.*, § 590), Germany (*ibid.*, § 591), Ghana (*ibid.*, § 592), Guinea (*ibid.*, § 593), Hungary (*ibid.*, § 594), India (*ibid.*, § 595), Indonesia (*ibid.*, §§ 596–597), Iraq (*ibid.*, § 598), Ireland (*ibid.*, § 599), Israel (*ibid.*, §§ 600–601), Italy (*ibid.*, §§ 602–603), Jordan (*ibid.*, § 604), Kazakhstan (*ibid.*, § 605), Kenya (*ibid.*, § 606), Republic of Korea (*ibid.*, § 607), Latvia (*ibid.*, § 608), Luxembourg (*ibid.*, § 609), Malaysia (*ibid.*, § 610), Mali (*ibid.*, §§ 611–612), Mexico (*ibid.*, § 613), Republic of Moldova (*ibid.*, § 614), Morocco (*ibid.*, § 615), Mozambique (*ibid.*, § 616), Myanmar (*ibid.*, § 617), Netherlands (*ibid.*, §§ 618–620), New Zealand (*ibid.*, §§ 621–622), Nicaragua (*ibid.*, § 623), Nigeria (*ibid.*, § 624), Norway (*ibid.*, § 625), Paraguay (*ibid.*, §§ 626–627), Peru (*ibid.*, § 628), Philippines (*ibid.*, §§ 629–630), Russian Federation (*ibid.*, § 631), Senegal (*ibid.*, § 632), Singapore (*ibid.*, § 633), Slovakia (*ibid.*, § 634), Slovenia (*ibid.*, § 635), Spain (*ibid.*, §§ 636–638), Sri Lanka (*ibid.*, §§ 639–641), Switzerland (*ibid.*, § 642), Tajikistan (*ibid.*, § 643), Togo (*ibid.*, § 644), Trinidad and Tobago (*ibid.*, § 645), Tunisia (*ibid.*, § 647), Uganda (*ibid.*, § 648), Ukraine (*ibid.*, § 649), United Kingdom (*ibid.*, §§ 650–652), United States (*ibid.*, §§ 653–656), Uzbekistan (*ibid.*, § 657), Venezuela (*ibid.*, § 658), Viet Nam (*ibid.*, § 659), Yemen (*ibid.*, §§ 660–661), Yugoslavia (*ibid.*, §§ 662–663), Zambia (*ibid.*, § 664) and Zimbabwe (*ibid.*, § 665); see also the draft legislation of Argentina (*ibid.*, § 556), Burundi (*ibid.*, § 567) and Trinidad and Tobago (*ibid.*, § 646).

[8] - See, in particular, China, War Crimes Military Tribunal of the Ministry of National Defence at Nanking, *Takashi Sakai case* (*ibid.*, § 667); France, Permanent Military Tribunal at Clermont-Ferrand, *Szabados case* (*ibid.*, § 669); France, Permanent Military Tribunal at Dijon, *Holstein case* (*ibid.*, § 670); France, Permanent Military Tribunal at Metz, *Bauer case* (*ibid.*, § 671); Netherlands, Special Criminal Court at Hertogenbosch and Special Court of Cassation, *Esau case* (*ibid.*, § 675); Netherlands, Special Criminal Court at The Hague, *Fiebig case* (*ibid.*, § 676); United States, Military Tribunal at Nuremberg, *Pohl case* (*ibid.*, § 677) and *Von Leeb (The High Command Trial) case* (*ibid.*, § 678).

[9] - ICTY, *Jelisić case*, Judgment (*ibid.*, § 740), *Delalić case*, Judgment (*ibid.*, § 742), *Blaškić case*, Judgment (*ibid.*, § 743) and *Kordić and Čerkez case*, Judgment (*ibid.*, § 744).

[10] - See, e.g., the statements of Afghanistan (*ibid.*, § 680), Bahrain (*ibid.*, § 683), China (*ibid.*, § 684), Finland (*ibid.*, § 686), France (*ibid.*, § 687), Germany (*ibid.*, §§ 688–689), Kuwait (*ibid.*, §§ 691–693), Qatar (*ibid.*, § 695), Russian Federation (*ibid.*, § 697), Slovenia (*ibid.*, § 699), Spain (*ibid.*, § 700), United Kingdom (*ibid.*, §§ 701 and 703), United States (*ibid.*, § 704) and Yugoslavia (*ibid.*, § 705), the practice of the United Kingdom (*ibid.*, § 702) and the reported practice of the Islamic Republic of Iran (*ibid.*, § 690).

[11] - Additional Protocol II, Article 4(2)(g) (adopted by consensus) (*ibid.*, § 467).

[12] - ICC Statute, Article 8(2)(e)(v) (*ibid.*, § 468).

[13] - ICTY Statute, Article 3(e) (*ibid.*, § 480); ICTR Statute, Article 4(f) (*ibid.*, § 482); Statute of the Special Court for Sierra Leone, Article 3 (*ibid.*, § 469).

[14] - See, e.g., the military manuals of Argentina (*ibid.*, § 487), Australia (*ibid.*, §§ 488–489), Benin (*ibid.*, § 492), Cameroon (*ibid.*, § 495), Canada (*ibid.*, §§ 496–497), China (*ibid.*, § 498), Colombia (*ibid.*, §§ 499–500), Croatia (*ibid.*, §§ 502–503), Ecuador (*ibid.*, § 505), El Salvador (*ibid.*, § 506), France (*ibid.*, § 510), Germany (*ibid.*, §§ 511–512), Italy (*ibid.*, §§ 517–518), Kenya (*ibid.*, § 519), Madagascar (*ibid.*, § 522), Netherlands (*ibid.*, § 525), New Zealand (*ibid.*, § 527), Nigeria (*ibid.*, §§ 528–529 and 531), Peru (*ibid.*, § 533), Philippines (*ibid.*, §§ 533–534), Russian Federation (*ibid.*, § 535), Senegal (*ibid.*, § 537), South Africa (*ibid.*, § 538), Spain (*ibid.*, § 539), Togo (*ibid.*, § 542), Uganda (*ibid.*, §§ 543–544) and Yugoslavia (*ibid.*, § 553).

[15] - See, e.g., the legislation of Australia (*ibid.*, § 559), Azerbaijan (*ibid.*, § 561), Bosnia and Herzegovina (*ibid.*, § 563), Canada (*ibid.*, §§ 569–570), Colombia (*ibid.*, § 576), Democratic Republic of the Congo (*ibid.*, § 577), Congo (*ibid.*, § 578), Croatia (*ibid.*, § 580), Ecuador (*ibid.*, § 582), El Salvador (*ibid.*, §§ 584–585), Estonia (*ibid.*, § 586), Ethiopia (*ibid.*, § 587), Gambia (*ibid.*, § 589), Georgia (*ibid.*, § 590), Germany (*ibid.*, § 591), Ghana (*ibid.*, § 592), Guinea (*ibid.*, § 593), Ireland (*ibid.*, § 599), Kazakhstan (*ibid.*, § 605), Kenya (*ibid.*, § 606), Latvia (*ibid.*, § 608), Republic of Moldova (*ibid.*, § 614), Netherlands (*ibid.*, § 620), New Zealand (*ibid.*, §§ 621–622), Nicaragua (*ibid.*, § 623), Nigeria (*ibid.*, § 624), Norway (*ibid.*, § 625), Paraguay (*ibid.*, § 627), Russian Federation (*ibid.*, § 631), Singapore (*ibid.*, § 633), Slovenia (*ibid.*, § 635), Spain (*ibid.*, §§ 637–638), Switzerland (*ibid.*, § 642), Tajikistan (*ibid.*, § 643), Trinidad and Tobago (*ibid.*, § 645), Uganda (*ibid.*, § 648), Ukraine (*ibid.*, § 649), United Kingdom (*ibid.*, § 652), Uzbekistan (*ibid.*, § 657), Venezuela (*ibid.*, § 658), Yemen (*ibid.*, § 661), Yugoslavia (*ibid.*, § 663), Zambia (*ibid.*, § 664) and Zimbabwe (*ibid.*, § 665); see also the legislation of Bulgaria (*ibid.*, § 565), Burkina Faso (*ibid.*, § 566), Czech Republic (*ibid.*, § 581), Hungary (*ibid.*, § 594), Italy (*ibid.*, §§ 602–603), Republic of Korea (*ibid.*, § 607), Mozambique (*ibid.*, § 616), Paraguay (*ibid.*, § 626), Peru (*ibid.*, § 628), Slovakia (*ibid.*, § 634) and Togo (*ibid.*, § 644), the application of which is not excluded in time of non-international armed conflict, and the draft legislation of Argentina (*ibid.*, § 556), Burundi (*ibid.*, § 567) and Trinidad and Tobago (*ibid.*, § 646).

[16] - Argentina, National Court of Appeals, *Military Junta case* (*ibid.*, § 666).

[17] - See, e.g., the statements of France (*ibid.*, § 687), Germany (*ibid.*, § 688), Russian Federation (*ibid.*, § 696) and Rwanda (*ibid.*, § 698) and the practice of Colombia (*ibid.*, § 685) and Yugoslavia (*ibid.*, § 705).

[18] - See, e.g., the statements of Afghanistan (*ibid.*, § 680), Bahrain (*ibid.*, § 683), China (*ibid.*, § 684), Colombia (*ibid.*, § 685), Finland (*ibid.*, § 686), France (*ibid.*, § 687), Germany (*ibid.*, §§ 688–689), Kuwait (*ibid.*, §§ 691–693), Nigeria (*ibid.*, § 694), Qatar (*ibid.*, § 695), Russian Federation (*ibid.*, §§ 696–697), Rwanda (*ibid.*, § 698), Slovenia (*ibid.*, § 699), Spain (*ibid.*, § 700), United Kingdom (*ibid.*, §§ 701–703), United States (*ibid.*, § 704) and Yugoslavia (*ibid.*, § 705).

[19] - See, e.g. UN Security Council, Res. 912 (*ibid.*, § 710), Res. 1019 (*ibid.*, § 711) and Res. 1034 (*ibid.*, § 712); UN Security Council, Statements by the President (*ibid.*, §§ 713–715); UN General Assembly, Res. 50/193 (*ibid.*, § 716); UN Commission on Human Rights, Res. 1994/59 (*ibid.*, § 717), Res. 1996/71 (*ibid.*, § 718) and Res. 1997/57 (*ibid.*, § 719); Gulf Cooperation Council, Final Communiqué of the Ministerial Council (*ibid.*, § 736).

[20] - See, e.g., the statements of the Russian Federation (*ibid.*, § 696) and Rwanda (*ibid.*, § 698) and the reported practice of Bosnia and Herzegovina, Republika Srpska (*ibid.*, § 757).

[21] - See, e.g., the reported practice of a State (*ibid.*, § 708).

[22] - 27th International Conference of the Red Cross and Red Crescent, Plan of Action for the years 2000–2003 (adopted by consensus) (*ibid.*, § 738).

[23] - *Black's Law Dictionary*, Fifth Edition, West Publishing, St. Paul, Minnesota, 1979, p. 1033.

[24] - Elements of Crimes for the ICC, Pillage as a war crime (ICC Statute, Article 8(2)(b)(xvi) and (e)(v)).