Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (adopted on December 1984; entry into force 26 June 1987)

Article 1
1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.

Article 2
1. Each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.

2. No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political in stability or any other public emergency, may be invoked as a justification of torture.

3. An order from a superior officer or a public authority may not be invoked as a justification of torture.

Article 3
1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.

2. For the purpose of determining whether there are such grounds, the competent authorities shall take into account all relevant considerations including, where applicable, the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights.

What is the definition of torture and ill treatment?
International humanitarian law prohibits torture and other forms of ill treatment at all times and demands that detainees be treated according to the rules and principles of IHL and other international standards.
**International Humanitarian Law (IHL)**

What is the definition of torture and ill treatment? (from: International Committee of the Red Cross, at: www.icrc.org)

International humanitarian law (IHL) differs somewhat from the UN Convention against torture in not requiring the involvement of a person acting in an official capacity as a condition for an act intended to inflict severe pain or suffering to be defined as torture.

The ICRC uses the broad term "ill-treatment" to cover both torture and other methods of abuse prohibited by international law, including inhuman, cruel, humiliating, and degrading treatment, outrages upon personal dignity and physical or moral coercion.

The legal difference between torture and other forms of ill treatment lies in the level of severity of pain or suffering imposed. In addition, torture requires the existence of a specific purpose behind the act – to obtain information, for example.

The various terms used to refer to different forms of ill treatment or infliction of pain can be explained as follows:

**Torture:** existence of a specific purpose plus intentional infliction of severe suffering or pain;

**Cruel or inhuman treatment:** no specific purpose, significant level of suffering or pain inflicted;

**Outrages upon personal dignity:** no specific purpose, significant level of humiliation or degradation.

Methods of ill treatment may be both physical and/or psychological in nature and both methods may have physical and psychological effects.

**Bush Administration**

President Bush used his executive powers to argue for a narrow definition of torture (‘severe pain’) defined as ‘organ failure,’ ‘impairment of bodily functions,’ or ‘death.’

**Efforts to legitimate the use of interrogation techniques**
- Memorandum of Understanding, September 17, 2001
- Deputy Assistant Attorney General John Yoo; Application of Treaties and Laws to al Qaeda and Taliban Detainees; January 9, 2002
- Endorsement by White House counsel Alberto R. Gonzales; January 25, 2002
- Assistant Attorney General J.S. Bybee; Standards of Conduct for Interrogation; August 1, 2002
- Detainees Interrogation in the Global war on Terrorism; March 6, 2003 Defense Department
- Military Commissions Act 2006