

# 'Military Justice in Occupied Territories – What are Occupation Courts? –Historical Evolution, Jurisdiction, and Fair Trial Guarantees'

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# I. Introduction

Article 66 GCIV

Article 64 GCIV

## Article 66 GCIV

In case of a breach of the penal provisions promulgated by virtue of the second paragraph of Article 64, the Occupying Power may hand over the accused to its properly constituted, non political military courts, on condition that the said courts sit in the occupied country. Court of appeal shall preferably sit in the occupied country.

## Article 64(1) GCIV

The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention. Subject to the latter consideration and to the necessity for ensuring the effective administration of justice, the tribunals of the occupied territory shall continue to function in respect of all offences covered by the said laws.

## Article 64(2) GCIV

The Occupying Power may, however, subject the population of the occupied territory to provisions which are essential to enable the Occupying Power to fulfil its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communication used by them.

# II. Analysing Occupation Courts

1. Definitional Elements of Occupation Courts

2. Occupation Courts as Genres of Military Tribunals

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# 4. Different Categories of Occupation Courts

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4.2. Military Commissions That Function as Occupation Courts

4.3. War Crimes Tribunals as Distinct Forms of Occupation Courts

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1. Overview

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# V. Occupation Courts and Fair Trial Guarantees

## 1. Overview

## **2. Trial of Civilians by Occupation Courts**

### 2.1. Overview

### 2.2. GCIII and Military Justice in Occupied Territories

### 2.3. Trial of Civilians by Military Tribunals in the Context of IHRL

### 2.3. Reconciling the IHL Rules and the Emerging Requirements of IHRL in relation to the Legality of Trying Civilians by Military Tribunals

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# VI. Conclusion

- Preoccupation overcome?
- Thank you very much.