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The "Torture Memo" expressed the position of the Office of the Legal Counsel of the Department of Justice in March 2003 concerning the legality under international law of "enhanced interrogation" techniques used against individuals detained as "enemy combatants" particularly in the Guantanamo Bay detention facility. The Memo argues in particular that, due to the reservations the United States appended to its ratification of the 1984 Convention against Torture, the United States would not be acting in violation of its international obligations by subjecting "enemy combatants" to "enhanced interrogation" techniques.

Two reasons were invoked. First, "torture" was understood very narrowly by the Reagan administration upon signing the Convention against Torture and by the United States Senate when the Convention was ratified under the first Bush administration, in 1992. In addition, the notion of "cruel, inhuman and degrading treatment or punishment" was defined then as having a meaning no different than that of the equivalent provisions in the United States Constitution (specifically, the Fifth, Fourteenth and Eighth Amendments).

The second argument was that the United States would be acting in self-defense by adopting measures against terrorism, and that the CAT could not be interpreted as to prohibit the US from the right to self-defense as defined in Article 51 of the UN Charter. Article 51 of the United Nations Charter states an exception to the prohibition of the use of force stated in Article 2(4) of the Charter, in the following terms:

"Nothing in the present Charter shall impair the inherent right of individual or collective self-defence if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security".


The "Torture Memo" states that even if interrogation methods were inconsistent with CAT, "they would still be in service of the more fundamental principle of self-defense that cannot be extinguished by CAT or any other treaty" (p. 57).

Do you agree?

**INSTRUCTIONS:** In responding to the above questions, **DO NOT click on 'New Post'**. Click on **'Show discussion'**, and then, in the first discussion thread, called **'[3.1.2] Justifying violations of human rights - The 'torture memo' Debate!'**, click on **'View discussion'** and then on **'Add a response'** to propose your views to the community. If you want to comment on a peer's opinions in that thread then click on **'Add a comment'** in his response. You can also watch the tutorial (<http://youtu.be/SINSJKdez6g>) (see also, the updated version (<http://youtu.be/TNoOB8q19kQ>)) in order to make the best use of the interface.

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