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The so-called "War on Terror" launched by the United States following the terrorist attacks of September 11th, 2001, on New York and Washington, has led to a renewed focus on the question whether torture may be inflicted on suspected terrorists who may be detaining "valuable" information -- information, that is, that could save lives of innocent people. The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture (CAT), in force since 1987) defines "torture" as

"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" (art. 1.1).

The CAT prohibits torture in all circumstances: "No exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture" (art. 2.2). After the 9/11 terrorist attacks, the Committee against Torture, the body of independent experts tasked with supervising compliance with the Convention against Torture, anticipated that the new context created by those attacks could put lead governments to question this fundamental rule. On 22 November 2001, the CAT Committee therefore issued the following statement, which was sent to all States parties:

The Committee against Torture condemns utterly the terrorist attacks of 11 September and expresses its profound condolences to the victims, who were nationals of some 80 countries, including many States parties to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee is mindful of the terrible threat to international peace and security posed by these acts of international terrorism, as affirmed in Security Council resolution 1368 (2001) of 12 September 2001. The Committee also notes that the Security Council in resolution 1373 (2001) of 28 September 2001 identified the need to combat by all means, in accordance with the Charter of the United Nations, the threats caused by terrorist acts. The Committee against Torture reminds States parties to the Convention of the non-derogable nature of most of the obligations undertaken by them in ratifying the Convention. The obligations contained in articles 2 (whereby "no exceptional circumstances whatsoever . may be invoked as a justification of torture"), 15 (prohibiting confessions extorted by torture being admitted in evidence, except against the torturer), and 16 (prohibiting cruel, inhuman or degrading treatment or punishment) are three such provisions and must be observed in all circumstances. The Committee against Torture is confident that whatever responses to the threat of international terrorism are adopted by States parties, such responses will be in

Despite this clear prohibition, the Bush Administration authorized the use by law enforcement agencies detaining suspected terrorists of so-called "enhanced interrogation techniques" consisting of, for example, prolonged sleep deprivation, binding in stress positions, and waterboarding. It relied on a memorandum drafted by John Yoo, between 2001 and 2003 the Deputy Assistant Attorney General of the United States, and signed by Assistant Attorney General Jay S. Bybee. The opinion, dated March 14th, 2003, came to be referred to as the Torture Memos, or as the "Bybee Memo" (see here (/c4x/LouvainX/Louv2.01x/asset/\_Materials\_Bybee\_Memo\_20030314.pdf), and focus in particular on pages 50-61). This forms the background for the two debates that follow.

For a presentation by the UN Youth Australia on the concerns raised by the interrogation techniques resorted to by the Bush administration on the terrorists detained on Guantanamo Bay, see the following video:

VIDEO - ENHANCED INTERROGATION

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Signatories to UN Convention Against Torture  
have agreed to an absolute prohibition of torture,  
asserting that there are no exceptional circumstances whatsoever  
in which it might be acceptable.  
No exceptional circumstances whatsoever means torture cannot be justified,  
even in the face of war internal political

This video is the property of UN Youth Australia (<http://www.unyouth.org.au/>), and can be alternatively seen directly on YouTube (<http://www.youtube.com/watch?v=vyObyh7q1qc>).



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The "Fortune Memos" [13.1] The absolute pr...



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Help