

E.MA European Master's Degree in
Human Rights and Democratisation

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**The Consequences of Counter-Terrorism Policies on
Fundamental Human Rights:
Discussing the Impact on the Prohibition of Torture**

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*Wer mit Ungeheuern kämpft, mag zusehn,
dass er nicht dabei zum Ungeheuer wird.
Und wenn du lange in einen Abgrund blickst,
blickt der Abgrund auch in dich hinein.*

*Those who do battle with monsters must take care
that they do not thereby become a monster.
Always remember that when you gaze into the abyss, the
abyss gazes back into you.**

*Friedrich Nietzsche,
Jenseits von Gut und Böse, 1886*

**Translation by Evan J. Wallach*

ABSTRACT

The events of September 11 and the consequential *modus operandi* chosen by the Bush's administration generated a severe international debate on torture, as the U.S. forces have mainly used it as a questionable mean to interrogate and obtain information from suspected terrorists. The subject of torture has been re-questioned since, and a whole new literature has flourished, and new discussions arose between the ones who condemn torture in its every form and those who justify it in certain particular cases. The overall debate on torture, the different views from the academic world, the latest proposals and critics will be the focus of this work.

Beginning with a brief analysis of the close link between terrorism and human rights, the thesis will proceed examining how the counter-terrorism strategy implemented by the United States failed to respect and adhere to international law obligations as far as human rights were concerned. Despite all the numerous violations occurred, the aspect of torture will be the only one considered throughout this work. Finally, an in-depth critical analysis on the on-going erosion of the prohibition on torture will be provided on a three-bases structure: the morals, the laws and the factual situation. Questioning the three dimensions, the goal will be to understand and evaluate the impact of the United States counter-terrorism policy on the range of the peremptory norm.

List of Abbreviations

CAT	Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
CIA	Central Intelligence Agency
ECHR	European Convention on Human Rights
FBI	Federal Bureau of Investigation
HRW	Human Rights Watch
ICCPR	International Covenant on Civil and Political Rights
IRA	Irish Republican Army
OLC	Office of Legal Counsel
OSCE	Organisation for Security and Co-operation in Europe
UDHR	Universal Declaration of Human Rights
UK	United Kingdom
UN	United Nations
US	United States of America
WOT	War on Terror

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