

Extended Controversial Issue Discussion Lesson Plan Template

Lesson Title: Socratic Seminar - Does the use of torture on enemy combatants violate the 8th amendment?

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Appropriate for Grade Level(s): 12th

US History Standard(s)/Applicable CCSS(s):

H2.[9-12].15 – Explain economic, political, and technological impact of the following conflicts on the United States: War on Terror

CCSS1. Initiate and participate effectively in a range of collaborative discussions (one-on-one, in groups, and teacher-led) with diverse partners on *grades 11–12 topics, texts, and issues*, building on others' ideas and expressing their own clearly and persuasively.

CCSS4. Present information, findings, and supporting evidence, conveying a clear and distinct perspective, such that listeners can follow the line of reasoning, alternative or opposing perspectives are addressed, and the organization, development, substance, and style are appropriate to purpose, audience, and a range of formal and informal tasks.

Discussion Question(s):

- 1) Ali Soufan claims the torture is “ineffective, slow and unreliable.” Do you agree or disagree with this statement? Explain.
- 2) Is it ever ethical to use torture to obtain information? Why or why not?
- 3) Does the use of torture by U.S. government officials on enemy combatants violate the 8th amendment? Explain.
- 4) Should the President of the United States be given the authority to use whatever means necessary to gather information to protect our country? Why or why not?

Engagement Strategy: Walk the Line

Have students gather in the center of the room. Place a paper titled “agree” on one side of the room and a paper titled “disagree” on the opposite side of the room. Explain to students that you are going to be reading a series of statements and that students will have to either “agree” or “disagree” with what is said and show their response by walking to the appropriate side of the room. Explain to students that there is no talking until the activity is complete.

- 1) Torture is never okay.
- 2) It is sometimes necessary to use torture to gain information from someone.
- 3) The United States should never use torture, even if it could result in saving innocent lives.
- 4) Torture is an ineffective, unreliable and slow way of obtaining information.
- 5) If necessary, the United States government should suspend a citizens 8th amendment right against cruel and unusual punishment and use torture if valuable information can be obtained.
- 6) Torture should only be used on someone classified as an “enemy combatant.”
- 7) The United States should honor the United Nations Convention against the Use of Torture.

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- 8) The United States should use whatever means necessary to protect itself against terrorist attacks like those that took place on September 11th 2001.
- 9) There is a difference between the U.S. government torturing its own citizens for information and the U.S. government torturing foreign citizens aligned with organizations like Al Qaeda and the Taliban.
- 10) The United States should not use torture simply because it is frowned upon by the world community

Student Readings (list):

Hall, Kermit. L. & Huebner, Timothy S. (2010). Major Problems in American Constitutional History (pg. 538-541)

Hall, Kermit. L. & Huebner, Timothy S. (2010). Major Problems in American Constitutional History (pg. 537-538)

Krauthammer, C. (2011). The Truth About Torture. In David Kole (ed.), *Securing Liberty* (pg. 69-82). New York, NY: The International Debate Education Association.

Posner, M. (2011). The Case for an Outright Ban on Torture. In David Kole (ed.), *Securing Liberty* (pg.95-115). New York, NY: The International Debate Education Association.

Soufan, Ali. (2011). Testimony of Ali Soufan. In David Kole (ed.), *Securing Liberty* (pg.83-92). New York, NY: The International Debate Education Association.

Total Time Needed: Two class periods, 75 minutes each

Lesson Outline:

Time Frame (e.g. 15 minutes)	What is the teacher doing?	What are students doing?
10 minutes	Taking attendance; monitoring student progress	Working on journal question: What is torture? When, if ever, should torture be used?
10 minutes	Giving directions: Explain that students will be given several readings regarding the use of torture in interrogation. Each reading will be accompanied with questions that the students will need to answer. The purpose of the readings is to prepare students for a class wide discussion of the political, legal and ethical questions that arise from the controversy of using torture.	Listening to directions.
15 minutes	Monitoring class reading.	Reading as a class, "The Truth about Torture." Answering reading questions.
30 minutes	Assigning students to reading groups; monitoring student reading progress and assisting with questions when needed.	Reading in groups the Ali Soufan and Michael Posner readings. Working in groups to answer reading questions.
10 minutes	Handing out Socratic Seminar Prep Sheet and assigning homework. Explain to students homework directions.	Listening to directions.
Before Class	Arrange desks in a circle for Socratic Seminar and place an "accountable talk" handout on each desk.	

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10 minutes	Give student instructions on what a moderator does and tell them to select a moderator for the Socratic Seminar. Take attendance.	Selecting a moderator.
10 minutes	Giving directions: Explain what “accountable talk” is and how students participating are expected to phrase questions and remarks. Go over Socratic Seminar rules. Explain to students that they should be addressing the class and not the teacher when speaking and that as the teacher, you will be observing and not participating in the seminar. Explain that the moderator will decide how much time to spend on each of the four questions and will decide when to move on to a new question. Explain to the moderator that when the discussion of a question comes to a stop, it is time to move on to the next question. Explain that all students are expected to participate and that all views, whether students agree or disagree, are to be respected. Tell the moderator that although you do not expect students to raise their hands to speak, that they need to delegate who is speaking first if more than one student is talking at a time.	Listening to directions.
50 minutes	Allow students to participate in and run the Socratic seminar. During this time, teacher will take notes for future feedback to the students and note participation for a grade.	Participating in the Socratic Seminar.
5 minutes	Teacher led de-brief.	Final comments and questions.

Description of Lesson Assessment: Students will be grading on three components. The completion of their reading questions, the Socratic Seminar Prep Sheet, and participation in the discussion.

Discussion Component	Points Worth	Points Earned
Reading Questions	12 points (1 point each)	
Socratic Seminar Prep Sheet	20 points (5 points for each question)	
Discussion: Students are expected to participate a minimum of 3 times – Comments/Questions must be appropriate and valuable to the discussion	18 points (6 points per appropriate/valuable input)	
Total	50 points	

How will students reflect on the process and their learning? At the end of the Socratic Seminar, students will complete a journal as homework. Students will answer the following questions: 1) Discuss two things that you learned from Socratic Seminar? 2) How have your views on the use of torture changed from participating in the Socratic Seminar? 3) How could Socratic Seminar be improved to better help you understand a topic?

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Name _____ Period _____

The Question of Torture???

Socratic Seminar Discussion Prep

You have been given several readings regarding the use of torture as an interrogation method. Please use the following "I believe" statement to formulate your stance on each discussion question listed. Be sure to identify evidence from the readings to support your stance!

#1: Ali Soufan claims that torture is "ineffective, slow and unreliable." Do you agree or disagree with this statement.

I believe ...

Because (cite **three** pieces of evidence from the readings that support your belief)...

- 1) _____

- 2) _____

- 3) _____

Give **one** arguments that support the opposing viewpoint from your argument that you found in the reading.

- 1) _____

#2: Is it ever ethical to use torture to obtain information?

I believe ...

Because (cite **three** pieces of evidence from the readings that support your belief)...

- 1) _____

- 2) _____

- 3) _____

Give **one** arguments that support the opposing viewpoint from your argument that you found in the reading.

- 1) _____

#3: Does the use of torture by U.S. government officials on enemy combatants violate the 8th Amendment?

I believe ...

Because (cite **three** pieces of evidence from the readings that support your belief)...

- 1) _____

- 2) _____

- 3) _____

Give **one** arguments that support the opposing viewpoint from your argument that you found in the reading.

- 1) _____

#4: Should the President of the United States be given the authority to use whatever means necessary to gather information to protect our country? Why or why not?

I believe ...

Because (cite **three** pieces of evidence from the readings that support your belief)...

- 1)

- 2)

- 3)

Give **one** arguments that support the opposing viewpoint from your argument that you found in the reading.

- 1)

Is Torture Ever Justified?

By: Amy Coombs

The use of torture as a punishment for crimes and as an interrogation technique has been used for centuries throughout the world. Today, the practice raises a number of legal and moral questions as to whether torturing prisoners or detainees for information should be continued in the United States. The United Nations, of which the United States is a member, has taken a strong stance against the practice stating, “No exceptional circumstances whatsoever, whether a state of war or threat of war, internal political instability or any other public emergency, may be invoked as a justification for torture.”¹ Despite strong objections from the United Nations and despite the fact the United States willingly entered into the CAT (Convention Against Torture) Treaty in 1994, there is still evidence that the United States government has used torture techniques to extract information from “enemy combatants” in recent years and may be continuing the practice today.

Despite the United States ratification of the CAT Treaty, there are other issues to consider in regards to the use of torture as an interrogation technique. For example, the Founding Fathers of the United States provided certain safeguards within the Constitution to protect individuals from unjust treatment by their government. The Eighth Amendment to the United States Constitution states, “Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.”² The wording of the amendment is vague at best and begs the question, what does “cruel and unusual punishment” mean and how is it defined today, 225 years after the Constitution was written? Should we consider the use of torture whether it physical or psychological as cruel and unusual punishment, and if so, does the Eighth Amendment apply to people who are not citizens and may not even be held within our borders?

The interpretation of the words “cruel and unusual” in regards to punishment have unquestionably changed over time. Many punishments carried out by the federal or state governments that were considered acceptable when the Constitution was written, such as branding and public floggings have since lost public favor and would be considered cruel by today’s standards. Human morals and our sense of decency have grown the past two hundred years, and with it so have our perceptions as to what are fair and just punishments for criminals. This can be seen in the way that the states carry out executions. Although the end result is the same, the methods to execute a criminal have become, by societal standards, less cruel over time.

¹Garcia, M. G. (2009). U.N. Convention Against Torture (CAT): Overview and Application to Interrogation Techniques. Congressional Research Service. Pg. 2.

² U.S. Constitution, Amendment VIII

This brings us to the questions of torture. Would the use of torture to extract information from criminals and prisoners of war have been considered “cruel and unusual” punishment by our founding fathers? The answer to that question would certainly be yes. According to Posner, “The United States has a proud history of requiring humane treatment of all enemy prisoners, a tradition dating back to Gen. George Washington” who insisted that any British troops captured by U.S. forces be treated with “humanity”³ which by definition means to treat with compassion or sympathy. It is difficult to tie compassion or sympathy to the act of torture which literally means to inflict pain and suffering. The logical conclusion would be that if torture was not condoned by the founders of our country at a time when many practices regarding punishment seemed, by today’s standards, barbaric, then under normal circumstances, torture would certainly not be deemed acceptable by the citizens of the United States or its government.

Proof that the United States government as a whole does not condone torture as a practice is evident not only through our ratification of the CAT Treaty, but also through chapter 113C of the United States Criminal Code and other existing state and federal statutes, all of which prohibit the use, and criminalize the act of torture.⁴ Chapter 113C specifically addresses torture occurring outside the United States while Article 16 of the CAT treaty states “that each CAT party prohibits cruel, inhuman, and degrading treatment or punishment in any territory under its jurisdiction.”⁵ Yet, while the United States government seems to disapprove of the use of torture publicly, evidence of its use by agents of the United States at Guantanamo Bay and at Abu Ghraib prison is irrefutable.

While the United States government and its officials may have whole heartedly disapproved of the practice of torture in past years, the 21st century has brought with it a new kind of war that cannot be fought in a conventional manner. The terrorist attacks on 9/11 and the ensuing War on Terror are not being fought against sovereign states, but rather, they’re being fought against individuals and extremist groups that target not only the United States government, but civilians as well. As Krauthammer states, these terrorists “live outside the laws of war because they do not wear a uniform, they hide among civilians, and they deliberately target innocents.”⁶ Krauthammer argues that terrorists therefore, are not entitled to the same rights and humane treatment as an “ordinary soldier caught on the field of battle.” He also argues that “torture is sometimes warranted and that to oppose torture where doing so would lead to hundreds of innocent civilian deaths is moral squeamishness.”⁷

³Posner, M. (2011). *The Case for an Outright Ban on Torture*. In D. Cole (Ed.), *Securing Liberty* (pp. 97). New York, NY: The International Debate Education Association.

⁴Garcia, M. G. (2009). U.N. Convention Against Torture (CAT): Overview and Application to Interrogation Techniques. Congressional Research Service. Pg. 7.

⁵Garcia, M. G. (2009). U.N. Convention Against Torture (CAT): Overview and Application to Interrogation Techniques. Congressional Research Service. Pg. 11.

⁶Krauthammer, C. (2011). *The Truth about Torture*. In D. Cole (Ed.), *Securing Liberty* (pp. 70). New York, NY: The International Debate Education Association.

⁷Cole, D. (2011). *The Use of Torture in Exceptional Circumstances*. In David Cole (Ed.), *Securing Liberty* (pp. 67). New York, NY: The International Debate Education Association.

President George W. Bush and Alberto R. Gonzales would agree with Krauthammer. President George W. Bush was tasked with the burden of being the first President in 60 years to handle the aftermath of an attack on U.S. soil and the first President to deal with mass civilian casualties as a result of such a strike. The fear that another unexpected attack might occur if offensive measures were not taken by the executive office prompted Congress to grant the President the authorization needed to “use all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attack that occurred on September 11th, 2001, or harbored such organizations or persons, in order to prevent any future acts of international terrorism against the United States...”⁸ in S.J. Resolution 23. It would seem that this resolution would include any coercive interrogation acts deemed necessary to extract information from an enemy combatant who might have information that could save lives.

The Bush Administration took S.J. Resolution 23 seriously and authorized agents of the United States to use tactics to extract information from captured enemy combatants that included physical tortures such as waterboarding and psychological tortures such as sensory deprivation,⁹ both of which are strictly forbidden under the CAT Treaty. Faced with allegations by the world community that the United States was violating the CAT Treaty, President Bush and the Department of Justice responded that “Article 16, as agreed to by the United States, does not cover aliens detained overseas.”¹⁰ Since any coercive measures used to gain information from enemy combatants were being practiced only in Iraq, Afghanistan and Guantanamo Bay, the Bush Administration argued that no treaty violation existed. The Department of Justice further defended the use of torture to Congress and the world community in the Bybee Memo which stated that, “the structure and history of the Constitution establish that the Founders entrusted the President with the primary responsibility, and therefore the power, to ensure the security of the United States in situations of grave and unforeseen emergencies.”¹¹ The ongoing War on Terror can certainly be classified as a grave and unforeseen emergency, and since this war is not being fought in a traditional sense, the United States has been forced to use different strategies to protect the United States against the threat of terror.

While the United States is undeniably guilty of using torture to extract information from enemy combatants, we must ask ourselves if the result of these methods is worth the resulting stain on the honor of our country. Posner states

⁸ Hall, K. and Huebner, T. (Eds.). (2010). *Major Problems in American Constitutional History* (pp.537). New York, NY: Wadsworth Cengage Learning.

⁹ McCoy, A. W. (2006). *A Question of Torture: CIA Interrogation from the Cold War to the War on Terror*. New York, NY: Henry Holt and Company, LLC. Pg. 8

¹⁰ Garcia, M.J. (2009). U.N. Convention Against Torture (CAT): Overview and Application to Interrogation Techniques. Congressional Research Service. Pg. 9

¹¹ Hall, K. and Huebner, T. (Eds.). (2010). *Major Problems in American Constitutional History*. Boston, MA: Wadsworth, Centage Learning. Pg. 539-540.

that the United States “has long presented itself to the world as a leader on human rights.”¹² Can the U.S. maintain that image if we knowingly use torture on people who have not been convicted of a crime in a court of law? Krauthammer would argue that if the torture leads to valuable information, then it is worth the possible damage to the reputation of the United States. However, many would argue that torture is not effective and therefore should never be used. The ancient Roman jurist Ulpian once stated that, “when tortured the strong will resist and the weak will say anything to end the pain.”¹³ Ali Soufan, a professional interrogator for the FBI, agrees and has vehemently argued that torture does not work. He states that torture “gets bad intelligence and undermines the kind of rapport building that practice shows produces good intelligence.”¹⁴ If Ulpian and Soufan are correct, than torture will almost never lead to any information that the United States can use to prevent future attacks from terrorists organizations.

Krauthammer disagrees and states that, in certain circumstances like the “ticking time bomb” scenario in which there is an eminent danger to U.S. civilians, torture is not only “permissible, but required.” He believes that in these cases, torturing an enemy combatant for life saving information is the “lesser of two evils” as it could result in preventing mass murder.¹⁵ While Krauthammer acknowledges that torture is immoral and unethical, he also believes that it is sometimes necessary for the greater good.

The effectiveness of torture is certainly a question that should be examined whenever we consider its use to extract information. The Bush Administration took the stance that the use of torture was a necessary evil in order to protect the United States and its citizens. Soufan argues that torture is an ineffective tool and that there are other options for gaining information to combat terrorism. Regardless of your stance on the issue, it seems clear that torture does in fact go against the principles set forth by the United States in the 8th Amendment and against human rights statutes put in place by the United Nations in the CAT Treaty. In addition, there are clearly moral and ethical questions associated with the practice. While the use of torture might result in valuable information, the United States must consider its role as a leader in human rights and ultimately decide if the practice is worth the ensuing tarnish on our image.

¹² Posner, M. H. (2011). *The Case for an Outright Ban on Torture*. In David Cole (Ed.), *Securing Liberty* (pp. 102). New York, NY: The International Debate Education Association.

¹³ McCoy, A. W. (2006). *A Question of Torture: CIA Interrogation from the Cold War to the War on Terror*. New York, NY: Henry Holt and Company, LLC. Pg. 196

¹⁴ Cole, D. (2011). *The Use of Torture in Exceptional Circumstances*. In David Cole (Ed.), *Securing Liberty* (pp. 68). New York, NY: The International Debate Education Association.

¹⁵ Krauthammer, C. (2011). *The Truth about Torture*. In David Cole (Ed.), *Securing Liberty* (pg. 72-74). New York, NY: The International Debate Education Association.

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