law always will be, global legalists mistake 'the legalistic rhetoric of Europe and the United States for reality'. It will be interesting, if quite possibly depressing, to test this argument against the long-term outcome of the legally binding agreement that at some point will presumably be reached following the 2009 Copenhagen conference on climate change.

Challenging orthodox assumptions, *The perils of global legalism* deserves the attention of those who will find its argument most unpalatable. But why should this reviewer, who shares Posner's unease at a number of developments in international law, for instance its unsure touch once it departs from its classical role of regulating relations between states; whose views about certain international bodies range like Posner's from scepticism about their usefulness to dismay at their behaviour; and who, like the author, would rather be ruled by politicians than by judges (witness Posner's unkind, and enjoyable, assessment of much environmental litigation), still have reservations about this book?

One reason is that in demolishing easy targets like advocates of world government, Posner leaves his real enemies, those who, in his view misguidedly, believe international law can be made to work at a global level, tinged with guilt by association. Nor are they necessarily adherents of global legalism as he describes it. This perhaps encourages what is surely an exaggerated account of the influence of global legalism. Although we have all encountered its adherents, the noise they make is, one hopes, in inverse proportion to their importance. Then, the argument switches disconcertingly between real and hypothetical examples of the behaviour of states; and the author's short way with difficult legal issues and history means much has to be taken on trust. The scholarly literature of international law and international relations is well represented, but the voice of the legal practitioner, diplomat or politician is rarely heard (though Posner quotes a silken passage from the argument of the late Humphrey Waldock in the Icelandic Fisheries case). What diplomats and lawyers—and even politicians—actually do, and what they claim to be doing, may not always be as far apart as rational choice theory would have it. Reducing motivation to rational choice is, to say the least, problematic. It is certainly not the only game in town these days.

*David Bentley, International Law, Chatham House*

**The torture memos: rationalizing the unthinkable. Edited by David Cole.** Oxford: Oneworld. 2009. 304pp. Pb.: £12.99. ISBN 978 1 85168 735 0.

**The Guantanamo effect: exposing the consequences of US detention and interrogation practices. By Laurel E. Fletcher and Eric Stover.** Berkeley, CA: University of California Press. 2009. 210pp. Pb.: £10.95. ISBN 978 0 52026 177 8.

Few questions cast as distinct and dangerous a cloud over contemporary foreign policy and international affairs as does that which asks what we can or should be willing to tolerate in the way of government encroachment on civil liberties in the battle against non-state actor violence.

David Cole's *The torture memos* and Laurel Fletcher and Eric Stover's *The Guantanamo effect* shed notable light on the legal, moral and psychological implications and ramifications of the employment of 'enhanced interrogation techniques' and detention practices under the Bush administration. Both volumes lead with practically irrefutable evidence and base their criticisms firmly on empirically observed cases and practices. Neither is caught up in conjecture and hyperbole. Both represent considerable achievements in terms of presenting a case against the employment of such practices. Yet neither tackles the practical implications of the employment of these practices *vis-à-vis* the stated objectives of the foreign policy practice of countering violence by non-state actors. Herein lies an opportunity to extend the critique of interrogation and detention practices defined under the Bush administration.

David Cole's collection of six minimally abbreviated, so-called torture memos, emanating from the Office of Legal Counsel between August 2002 and May 2005, traces the evolution in official classifications of techniques considered acceptable under the presidency of George W. Bush. These are presented alongside a foreword by Philippe Sands (author of *The torture team: uncovering war crimes in the land of the free*, Allen Lane, 2008) and an introductory discussion by Cole that places the memos in the context of torture law. In combination, these materials provide an invaluable introduction to the



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evolution of 'enhanced interrogation techniques' in the post-9/11 period. As such, the book provides a credible reference for students and researchers in international law, human rights, foreign policy and homeland security.

In his foreword, Sands notes that the priority is not to determine how to characterize these acts—he claims they are already commonly understood to be examples of torture—but, rather, what to do about them. Investigations in the style of those ongoing in Spain are certainly warranted morally and legally; however, this approach largely ignores the question of utility and the quite separate conclusion that these techniques may be ineffective and, more worryingly, that they may be counterproductive. What is lacking in this assessment of 'enhanced interrogation techniques' is a consideration that they not only violate international norms, but that they may additionally engender hatred and grievances that motivate further uses of violence against the United States and its allies as well as aiding the recruitment and retention of members of violent non-state organizations. Memos drafted on behalf of Alberto Gonzales, John Rizzo and James Comey between August 2002 and May 2005 laid down authorization for the use of 'enhanced interrogation techniques', such as stress positions, sleep deprivation, dogs and nudity. These techniques were commonplace in Guantánamo Bay, Afghanistan and Iraq—including, of course, Abu Ghraib prison. Most notably, perhaps, the technique of simulating drowning—'waterboarding'—was employed 183 times in interrogations of Khalid Sheikh Mohammed and 83 times in the case of Abu Zubaydah.

Cole's narrative softens the often sharp, polemical debate. Not all decisions were the result of a vindictive cruelty and not all represent clear cases of torture, he notes. The problem was, rather, that the lawyers universally wrote 'consent' for actions to be taken: 'Rather than demand that the CIA conform its conduct to the law, the lawyers contorted the law to conform it to the CIA's desires' (p. 4). Cole establishes that torture is never justified—a rare case where there are no exceptions in domestic or international law. He uses this to preclude the utilitarian logic, showing that it is not justified even where hundreds or thousands of lives could be saved.

Fletcher and Stover's *The Guantanamo effect* takes a different approach by detailing the personal experiences shaped by the Bush administration's policy choices, including those crafted in the memos detailed in Cole's volume. They reach almost identical conclusions regarding the cost to US reputation and the damage to international norms and laws. Fletcher and Stover look at the personal testimonies of 62 former detainees at Guantánamo Bay who were recipients of what—in her foreword to the study—Patricia M. Wald describes as 'infinite variations on physical and mental abuse, including intimidation, stress positions, enforced nudity, sexual humiliation, and interference with religious practices' (p. xii).

This book adds considerable depth to our understanding of the practices of interrogation by contextualizing the primary detention facility used for these purposes, Guantánamo Bay. The authors systematically and starkly report the unsurprising, yet hitherto anecdotal, evidence of an insurmountable psychological toll, the result of accumulated experiences, including indefinite detention; mental and physical abuse; and prolonged isolation. Each of these techniques was designed to guarantee that detainees remained disoriented, humiliated and uncertain. The 'Guantánamo effect' is therefore not just the range of practices of 'enhanced interrogation techniques' but also the wider range of policies surrounding these techniques, which had the effect of eating away at the will of detainees.

Fletcher and Stover note that these practices—described as a 'new paradigm'—emerged almost immediately after 9/11 via a series of decisions taken under a cloak of secrecy by the Bush administration. These decisions enabled the use of black sites and loopholes in the framework of international law and homeland security. This combination of legal (as highlighted by Cole) and physical (as highlighted by Fletcher and Stover) sanctuaries from the constraints of domestic and international law had the direct effect, the authors argue, of impairing the psychological and social capacities of all detainees, such that they have proved unable to reintegrate within society in the aftermath of their release from the detention camp.

These books represent the vanguard of a burgeoning post-Bush administration investigation and digestion of 'enhanced interrogation techniques', a literature driven, by and large, by legal scholars.


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Both books highlight the central importance that the Bush administration placed on the collection of intelligence and their belief that this would be best achieved via coercive means. In both instances, the authors rightly conclude that the practices and policies designed and carried out were grossly inappropriate from moral and legal perspectives.

Neither book challenges the precarious underlying assumption on which the Bush administration's decisions appear to have been made: that 'enhanced interrogation techniques' represent an efficient means of extracting intelligence. Lacking in both volumes is a counterterrorism perspective. While there remains a common perception that torture works, it is likely that authorities will look to exploit regulations, to stretch definitions, and to try to enable and facilitate as many actions as possible. If, however, we are able to demonstrate that there are strategic costs to such actions—in terms of the generation and exacerbation of non-state actor grievances—then perhaps it will prove possible to remove the incentive to undermine the torture laws.

*Alex Braithwaite, University College London, UK*

**Beyond corporate social responsibility: oil multinationals and social challenges. By Jedrzej George Frynas.** Cambridge: Cambridge University Press. 2009. 207pp. £55.00. ISBN 978 0 52186 844 0.

George Frynas, an academic and consultant, knows the oil industry. His detailed analysis of the industry's uneasy embrace of corporate social responsibility (CSR) is a drama of sharp pressures on oil multinationals to take on more social functions, and the multinationals' mostly grudging and superficial responses.

The multinationals have used CSR to make virtue of necessity. After brand-threatening publicity in the 1980s and 1990s (such as the *Exxon Valdez* spill, BP's alleged involvement with the Colombian military, and Shell's role in the attempted disposal of the Brent Spar oil storage buoy in the North Sea and Ken Saro-Wiwa's execution in Nigeria), the companies needed to trumpet new and higher standards. And in today's cut-throat game in which the western majors wrestle with Asian national companies for contracts, big oil sometimes reaches for CSR to gain an edge: 'Western multinational companies face strong competitive pressures, are driven purely by commercial concerns and their access to many of the world's oil reserves is limited, so they need to use any available means to gain a competitive advantage over their rivals. CSR may just be one of those means' (p. 36).

The difficulty for these multinationals is that, having accepted more responsibilities, they are then expected to do ever more—more than business priorities can justify. Firms have been loaded with increasing responsibilities in oil-producing countries because the often dysfunctional local governments have been unable to fulfil them. (Indeed Frynas argues that CSR can often just be seen as remedial private action for governance failure: avoiding oil spills counts as CSR in poorly run Nigeria, but only as regulatory compliance in well-governed Norway.) The book shows the oil majors shouldering some of these burdens, but mostly with discomfort.

Environmental CSR is the big success story. Though many problems remain, the majors have made great progress in reducing spills, cutting gas flaring, and reporting on impacts. The firms have been proactive both because environmental harm loves publicity and because the business case for cleaning up has added up. Environmental reforms have been 'win-win': selling gas instead of flaring it can be profitable; installing slower-rusting pipelines can reduce costs. Moreover, environmental reforms are the kinds of challenges liked by the managers and engineers who dominate the industry: these are discrete, technical initiatives with clearly quantifiable outcomes.

The multinationals have let more unwieldy social tasks, such as poverty reduction in oil-producing countries, slip. Poverty reduction, as development professionals know, is hard. Success usually requires dedicated staff with excellent local knowledge and human skills crafting long-term projects that are 'owned' by beneficiaries. The oil companies have instead tended towards short-term spending heedless to the needs of the poorest. Frynas depicts firms using funds labelled 'development' to further their commercial goals: gaining access to oil; protecting their facilities from predation; boosting their brands; and maintaining employee morale. In some cases (one firm's donation to the Angolan president's personal charity) poverty relief seems foremost in nobody's mind. Yet even in



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