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It's October 23, 2002, and you're Jay Bybee, the man in charge of the Office of Legal Counsel in the United States Department of Justice. John Yoo and a bunch of other lawyers willing to claim that absolutely anything is legal work for you. But you'd much rather be a judge. That would be a cushy job, a lifetime job, a job with a book of the Bible named for it, a job where you would get to decide which crimes to legalize rather than being told by someone else, a job where you might eventually even get to rule on the legality of some of the crimes you were presently engaged in committing. At the moment, however, if you want to become a judge you're going to have to follow instructions, and that means legalizing the greatest crime of them all. Millions may die in the process, but you will get that nomination and you will become a judge.

You pray for divine guidance and sit down to write (or at least sign) this apology for, authorization of, and confession to mass murder, another term for which is often genocide. Here's your opening line in all caps:

"AUTHORITY OF THE PRESIDENT UNDER DOMESTIC AND INTERNATIONAL LAW TO
USE MILITARY FORCE AGAINST IRAQ"

This is a remarkable thing for you (or even Yoo, your psychotic sidekick) to have written, because the Constitution is the supreme law domestically, and it gives Congress the exclusive power to decide to wage war. And under the United Nations Charter, no nation has the authority to attack another. But you were Jay Bybee. You were the man. You were the authority handing out personalized torture laws for individual victims. You were, in fact, already a judge convicting and sentencing people in lengthy rulings before "legalizing" and imposing their sadistic punishments. Granting U.S. presidents the power to launch aggressive wars didn't trouble you in the way it might have someone who cared about people and their lives. But this single memo would mean far more pain and suffering than all of your soon-to-be-famous torture memos put together.

You added a bit more to your composition, about 50 pages more in fact. You (or whoever wrote this for you) began thus:

"The President possesses constitutional authority to use military force against Iraq to protect United States national interests."

Now you were showing off, digging yourself deeper. Now you would need to explain how the United States could have national interests in somebody else's distant nation that outweighed that nation's own interest in not being attacked or invaded.

And you were just warming up. You dug deeper:

"This independent constitutional authority is supplemented by congressional authorization in the form of the Authorization for Use of Military Force Against Iraq Resolution."

This is apparently a reference to the 1991 version of this type of congressional buck passing. In fact, such a resolution could not alter the Constitution to either remove or augment anything. In addition, it was more than a decade old. That wouldn't faze you, Jay Bybee, because you'd already given the president "independent constitutional authority" to treat such an authorization as redundant and superfluous. Its primary purpose was to pack these pages and obscure the simplicity of your primary argument, if that's a name merited by your bald assertion that verily this is that.

You did some international digging too:

"Using force against Iraq would be consistent with international law because it would be authorized by the United Nations Security Council or would be justified as anticipatory self-defense."

Now you were digging deep indeed. By citing the two exceptions that the UN Charter makes to its ban on war, you were acknowledging its authority. But neither exception applied. The UN rejected a US attack on Iraq as something it could not authorize, and such an attack would -- of course -- not be self-defense. But that didn't matter either, because you'd already begun to alter the law. You invented something called "anticipatory self-defense." But international law did not recognize such a thing, and no international authority agreed that it legalized an attack on Iraq. Your citation-packed memo failed to present any citations for this hooley.

Through such alterations, of course, you were increasing the "legal" acceptability of almost any future war launched by any nation against any other.

What could possibly be more damaging? Or more well documented? Your crime is in black and white and continues for almost 50 more pages. Yet, as of December 2009, congressional committees were pretending to await a report on your memos from the Justice Department itself, with the incorporation of watering-down edits from you and your co-conspirators. Even bar associations were awaiting the same report before concluding that a desk-chair mass-murderer like you was unfit to be a lawyer.

Rule for civilians: first kill all the lawyers. Rule for lawyers: first kill everyone else?

This "memo" you were drafting for White House Counsel Alberto Gonzales was going to be treated as a secret law, but it would remain on record as some sort of quasi-law after becoming public. Years later it still hasn't been rejected (its existence in fact barely acknowledged), even if your public reputation has been ruined and the failure of Congress to impeach you now in your current office is commonly cited as evidence of the death of Congress as an institution. In fact, you're facing civil prosecutions at home and a possible indictment in Spain for having drafted much less criminal memos than this one. Here's what you wrote to Gonzales, who had asked you on behalf of President George W. Bush to legalize aggressive wars for him:

"You have asked our Office whether the President has the authority, under both domestic and international law, to use military force against Iraq. This memorandum confirms our prior advice to you regarding the scope of the President's authority. We conclude that the President possesses constitutional authority for ordering the use of force against Iraq to protect our

national interests. This independent authority is supplemented by congressional authorization in the form of the Authorization for Use of Military Force Against Iraq Resolution, Pub. L. No. 102-1, 105 Stat. 3 (1991), which supports the use of force to secure Iraq's compliance with its international obligations following the liberation of Kuwait, and the Authorization for Use of Military Force, Pub. L. No. 107-40, 115 Stat. 224 (2001), which supports military action against Iraq if the President determines Iraq provided assistance to the perpetrators of the terrorist attacks of September 11, 2001."

Now this is curious. You've already granted the president absolute authority. Then you've granted him authority on the basis of an AUMF from 1991. Now you throw in the 2001 version that allowed the attack on Afghanistan. That one will provide additional redundant authorization, you claim, if Iraq provided assistance to 9-11, or rather: if the president determines that to be the case. Congress passed yet another non-declaration of war less than two weeks before the date on your memo. This one, even if you chose to accept it as constitutional, had terms attached to it that George W. Bush had no intention of complying with and in fact violated. And none of these domestic justifications for the crime you are here "legalizing" fit with any of the international justifications you were alleging in this same memo. A war is no more authorized by the UNSC or defensive because Congress misplaces its spine or the president "determines" that pigs fly. And your arguments for the domestic legality of the war do not attempt to portray it as defensive of U.N.-approved.

So, you returned to the international arena with this thesis, to be argued for below:

"In addition, using force against Iraq would be consistent with international law, because it would be authorized by the United Nations ("U.N.") Security Council, or would be justified as anticipatory self-defense."

And you were still just clearing your throat:

"This memorandum is divided into three sections. First, we explain the background to the current conflict with Iraq, touching upon the U.N. Security Council resolutions related to the Persian Gulf War and its aftermath, and highlighting the situations in which the United States has used force against Iraq between 1991 and the present. Second, we discuss the President's authority under domestic law to direct military action against Iraq, examining both his

constitutional authority and supplementary congressional support. Finally, we detail the justification under international law for the United States to use force against Iraq, considering the circumstances in which the U.N. Security Council has authorized such action and the scenarios in which it would be appropriate to use force in anticipatory self-defense."

Appropriate? If what is legal morphs into what is appropriate, and the determiner of what is appropriate is Jay Bybee, what are the law books for? And what would best make an aggressive war appropriate? Why, pretending it was simply an ordinary and even defensive continuation of a war long-since legalized. Making that case, however, would require providing some background. Forgive me if I quote and then quickly dismiss a large stinking, steaming pile of it (background). I've deleted your footnotes throughout, by the way, Mr. Bybee, simply because they are in the same vein as the rest of the document and consequently make it even worse, not better. Those wanting to read the footnotes can go to your original: [PDF](#) .

To continue reading this annotated blogger's edition of Bybee's confession to mass-murder, open one of these documents:

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