

By John Glaser | [Original article](#)

State Department legal advisor Harold Koh is turning out to be the Obama administration's John Yoo. He spoke at [a Senate Foreign Relations Committee hearing on Tuesday](#) to explain his [ridiculous interpretation of the War Power Resolution](#) which Obama [favored over the advice](#) of his [top military and administration legal advisers](#).

"When U.S. forces engage in a limited military mission that involves limited exposure for U.S. troops and limited risk of serious escalation and employs limited military means, we are not in hostilities of the kind envisioned by the War Powers Resolution," State Department legal advisor Harold Koh told the committee.

[...]The discussion took a surprisingly personal turn when Sen. Bob Corker (R-Tenn.) called Koh's argument "really pretty incredible," and noted that U.S. planes and drones are engaged in the mission.

[...]“I would guess at night, however people of your category give high-fives, you're talking to other academics about this cute argument that has been utilized,” Corker said. “But I would say to you that I think you've undermined the credibility of this administration; I think you've undermined the integrity of the War Powers Act; and I think by taking this very narrow approach, you've done a great disservice to our country.”

The conclusion of the hearing saw the [passing of a resolution authorizing U.S. involvement in Libya](#) by a vote of 14-5.

Many have been criticizing Koh not just for an absurd legal position but for “selling out” given his past as an outspoken critic of expansive Executive war powers. [NPR interviewed](#) “Mary Ellen O’Connell, a professor of international law at the University of Notre Dame who fought alongside Koh to protest a broad view of executive power that became popular during the Bush years.” She said:

Policies I believe he would have found highly questionable if they had been carried out by the Bush administration, he now is willing to so affirmatively defend.

Cato’s [Gene Healy wrote about this](#) last week:

Considering Koh’s background, the whole episode offers a cautionary tale about the corrupting effects of power. Harvard’s Jack Goldsmith notes that “for a quarter century before heading up State-Legal, Koh was the leading and most vocal academic critic of presidential unilateralism in war.” On the strength of that reputation, Koh rose to the deanship of Yale Law School in 2004.

[...] Yet the implications of Koh’s position today are that the president can rain down destruction via cruise missiles and robot death kites anywhere in the world, and unless an American soldier might get hurt, neither the Constitution nor the War Powers Resolution are offended.

Office of Legal Counsel adviser John Yoo during the Bush administration was so accommodating in his interpretation of law and executive power that Bush and his team placed the greatest emphasis on his counsel, which [provided legal sanction to Bush war crimes, especially regarding torture](#). The Obama administration has [relied on Koh’s legal advice on everything from detention policies to drone strikes](#) and now on Libya. Every administration needs their lawyer liar.