

What Yoo says about interrogation and torture

This is what Yoo had to say about interrogation limits:

“Any effort by Congress to regulate the interrogation of enemy combatants would violate the Constitution’s sole vesting of the Commander-in-Chief authority in the President.... Congress can no more interfere with the President’s conduct of the interrogation of enemy combatants than it can dictate strategic or tactical decisions on the battlefield.”

He also states:

“If a government defendant were to harm an enemy combatant during an interrogation in a manner that might arguably violate a criminal prohibition, he would be doing so in order to prevent further attacks on the United States by the al Qaeda terrorist network. In that case, we believe that he could argue that the executive branch’s constitutional authority to protect the nation from attack justified his actions.”

In other words, if the president as commander-in-chief says it is okay to torture, then it is.

Words of a War Criminal

OK to crush a child’s testicles

CASSEL: “If the President deems that he’s got to torture somebody, including by crushing the testicles of the person’s child, there is no law that can stop him?”

YOO: “No treaty.”

CASSEL: “Also no law by Congress. That is what you wrote in the August 2002 memo.”

YOO: “I think it depends on why the President thinks he needs to do that.”

12/1/05 • Chicago: Yoo in a debate with Notre Dame professor and international human rights scholar Doug Cassel

What constitutes torture?

In an August 1, 2002 memo Yoo defines torture as physical pain that must be “equivalent in intensity to the pain accompanying serious physical injury, such as organ failure, impairment of bodily function, or even death.” His narrow definition resulted in torture routinely being used by both the military and intelligence agencies.

Real people became victims of Yoo’s legal opinions

Let us meet just three victims of Yoo’s memos supporting torture.

MOHAMMED EL GHARANI was only 14 years old when he was accused by the U.S. military of being part of al-Qaida. He was arrested in Pakistan and sent to Guantanamo Bay where he was held until a federal judge in January 2009 said there was no credible evidence against him and ordered his release. El Gharani’s lawyers pointed out to the court that he would have been 11 in 1998, when he is accused of being part of an al-Qaida cell in England. He was not the only minor held at Guantanamo or other hellhole prisons run by the U.S. military. But Yoo and other lawyers of the Bush regime denied that he and other prisoners were entitled to the protections of international laws or even U.S. laws. Prisoners in these hellholes have been subjected to torture.

In many cases they have been murdered or died as a direct result of their treatment at the hands of U.S. authorities.

JOSE PADILLA is a U.S. citizen who was arrested on May 8, 2002. President Bush designated him an “illegal enemy combatant.” According to Yoo’s memos this allowed the government to hold Padilla indefinitely without recourse to the ordinary Constitutional protections afforded to the accused. As a result Padilla was held incommunicado, in isolation, for years, while being subjected to torture and abuse. Padilla’s treatment has caused not only physical pain, but extreme emotional and mental anxiety, to the extent that his defense attorneys maintained he was mentally unfit to stand trial. Yoo has been sued by Padilla on the

grounds that Padilla’s torture was the result of Yoo’s memos.

MOHAMMED JAWAD, like el Gharani, is another of the hundreds of children detained and tortured by the Bush-Cheney Torture State. Jawad was 12 or 13 when imprisoned at Guantanamo, and has spent 6 years being inhumanly tortured there – read the ACLU files in his defense, look up the facts about this heart-sickening example of America’s War OF Terror. [http://www.aclu.org/search/search_wrap.html?q=Jawad&imageField.x=16&imageField.y=6] Mohammed Jawad’s story alone will force you to ask: who is responsible for these unspeakable crimes, and what can we do to bring the crimes to a halt and the criminals to justice?

Yoo is unrepentant and boldly advocating for the same policies he set forth in his OLC memos

As Yoo’s role in the Bush/Cheney Torture Team has come more and more to light, he has gone on the offensive, giving speeches and publishing commentaries—he’s now a regular op-ed writer for the Philadelphia Enquirer. In a Wall Street Journal commentary he labeled his critics’ arguments as “absurd” and “foolhardy” responses to “the media-stoked politics of recrimination.” Yoo seems to echo former Vice-President Dick Cheney, who consistently and belligerently argues that the Bush regime’s actions in the U.S. “war on terror” were justified. But this should not be surprising: while Yoo was at the OLC, he regularly conducted back-door conversations with Cheney and Cheney’s counsel, David Addington. These three and other lawyers and officials in the Bush regime regularly consulted on how to best carry out their illegal agenda, while using OLC legal opinions to provide proper legal cover.

Because Yoo has been so vocal, and because he has come to symbolize many of the abuses of the Bush regime, it is even more important that he be held accountable for his actions. John Yoo should be fired, disbarred, and prosecuted.

A lawyer whose advice enabled the White House, the CIA, and the U.S. military to commit torture and other crimes is not protected by “freedom of speech.” A university which allows a war criminal to teach constitutional law and ethics courses to the next generation of lawyers and judges is not protecting “academic freedom,” it is protecting war crimes. A post-Bush/Cheney administration that refuses to fully repudiate—and prosecute—war crimes is not the “change” anyone hoped for.

The Bybee memo: Giving the green light for torture

After capturing alleged high-ranking al Qaida members, the CIA requested legal advice from the Bush administration as to what was allowable during interrogation to see how far they could go in torturing prisoners without the fear of being prosecuted. Alberto Gonzales directed the OLC to provide an answer. OLC drafted a response that was signed by Jay Bybee. (It is believed that John Yoo, with aid from David Addington, was the real principal author.)

This document is the first known one to utilize Yoo’s definition that says, physical pain “must be equivalent in intensity to the pain accompanying serious physical injury such as organ failure, impairment of bodily function, or even death.”

It said mental pain “must result in significant psychological harm of significant duration, e.g., lasting for months or even years,” and must be the result of one of the specific causes of mental pain contained in 18 USC 2340, “namely: threats of imminent death; threats of infliction of the kind of pain that would amount to physical torture; infliction of such physical pain as a means of psychological torture; use of drugs or other procedures designed to deeply disrupt the senses, or fundamentally alter an individual’s personality; or threatening to do any of these things to a third party.”

It went on to state that even if an act is “cruel, inhuman, or degrading,” it does not necessarily inflict the level of pain that 18 USC 2340 prohibits, and thus does not subject an interrogator to criminal prosecution. It further asserted that a defense of “necessity or self-defense may justify interrogation methods” that violate 18 USC 2340. In essence the memo gave the green light for the use of torture and the CIA then proceeded to use torture in its interrogations, including extensive use of waterboarding.

Protest and resistance against Yoo and his crimes must expand

Where Yoo has taught and appeared there has been protest and resistance exposing his criminal role within the Bush regime. But still Yoo is allowed to teach, remain a lawyer, and he has not been prosecuted. If you think he should be fired, disbarred, and prosecuted what can you do?

>> **You can be part of the protest and resistance that has already had a strong and**

growing influence on whether John Yoo and all the other Bush regime war criminals are held accountable. Since World Can't Wait's beginnings in 2005, this is a sample of ways people have taken responsibility to publicly call for justice and an end to the torture, related to John Yoo and his presence at UC's Boalt Hall and elsewhere:

At every public appearance by John Yoo (lectures, book signings, debates) protesters appear to denounce his crimes and demand that he be brought to justice. Protesters often don orange jumpsuits/black hoods to represent the detainees and torture victims.

>> **Yoo's attempt** to become a professor of law once again, after his time serving Bush/Cheney's OLC, is disrupted by widespread controversy on every campus where he teaches:.

At UC Berkeley in 2005, "prisoners" attended his class and asked Yoo to hold the "leash" attached to a jumpsuited "prisoner" (a la the infamous Lynddie England photo of the Abu Ghraib prisoner with the dog leash around his neck). At Chapman Orange County, Yoo was a visiting professor in Spring 2009) he was similarly greeted—and a big debate was set off in the student newspaper.

Yoo's class was visited/disrupted most recently by an Australian "reality-comedy" TV show, which sent a man in an Abu Ghraib costume into Yoo's class, who spoke up (with the cameras rolling) to demand to know "How long must I stand here before it's considered torture?"

>> **Large "town hall"** public meetings have presented expert speakers to inform and mobilize audiences to action. Debates have occurred in communities and on campuses too.

>> **Newspaper articles** and op-eds, radio news, and blogs all help spread the word, and spread the resistance.

>> **City governments** everywhere could follow the example of Berkeley, CA, where in 2008 the City Council passed a resolution to call on the incoming U.S. Attorney General and the U.S. Attorney for Northern California to prosecute Yoo for war crimes, and to ask UC Berkeley to fire Yoo if he's convicted.

>> **For two years**, the graduation ceremonies at UC Berkeley Law (Boalt) have been the site of large-scale mass protest actions. World Can't Wait, National Lawyers Guild, human rights and civil liberties groups working against torture, and others have called on the graduates to protest Yoo and torture (and many orange ribbons have been seen pinned onto graduates' gowns!).

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The World Can't Wait—Fire John Yoo!
www.worldcantwait.org



**The Truth
about Torture:
Why John Yoo
Should be
Fired, Disbarred,
and Prosecuted**

MANY PEOPLE know the name of John Yoo, but most do not know his full role in the criminal enterprise known as the Bush Regime. Yoo is associated with the infamous 81-page “torture memo” written while he was a Department of Justice (DOJ) lawyer, on a two-year leave from the UC Berkeley Law faculty. He is one of the many Bush administration attorneys who provided legal advice and legal cover for the illegal actions of the Bush regime during its eight years in power.

Others include I. Lewis “Scooter” Libby, former Chief of Staff to Cheney; Alberto Gonzales, former counsel to President Bush and then Attorney General; David Addington, legal counsel and Chief of Staff to Cheney; William Haynes, Pentagon General Counsel; and Jay Bybee, Yoo’s boss and himself the author of torture memos.

When President Obama has commented on the possibility of investigating illegal actions of Bush regime officials, he has tried to play to the political middle ground by claiming we must look to the future and not dwell on the past. But there can be no middle ground when it comes to torture and other war crimes.

Yoo did not just author obscure legal memos that were then filed away in a drawer. His work was essential to the crimes carried out by the Bush regime. DOJ’s Office of Legal Counsel (OLC) has traditionally advised the executive branch of the federal government as to what is legal and illegal. If OLC says something is legal, the executive branch can proceed with its agenda.

This is exactly what happened after Yoo issued his OLC memos. His memos

permitted the Bush regime to conduct massive surveillance; to imprison, torture, and abuse prisoners; to hold prisoners indefinitely without legal protections including habeas corpus; and to generally disregard various provisions of the Constitution. Legal scholar David Cole writes:

“Yoo had a hand in virtually every major legal decision involving the U.S. response to the attacks of September 11, and at every point, so far as we know, his advice was virtually always the same—the president can do whatever the president wants.”

IS AMERICAN TORTURE NOW PERMISSIBLE, LEGAL, AND PERMANENT?

The massive criminal actions committed by the Bush regime cannot be excused by platitudes from Obama. The criminal past must be repudiated and yes—punished. If we fail to hold our government and its officials accountable for the American torture state they have constructed, we are condoning that torture and it will continue to occur. This is why John Yoo must be held accountable for providing legal cover to the Bush administration for its crimes.

Torture is a war crime, and a crime against humanity. International and U.S. law both prohibit torture, under any and all circumstances, without exception. Yet while the Bush-Cheney torture state was being built, people in this country have been told the lie that torture is necessary to keep Americans safe, and acceptance of this “excuse” has already spread

UPDATE: Fall 2009 – John Yoo’s name is no longer attached only to torture. Now, through recent media revelations and legal actions, we learn that Yoo the Torture Professor also played a key role writing other Bush Regime “legal” memos supporting illegal government surveillance and use of U.S. troops against people on American soil. All of this patently illegal advice flows from Yoo’s notorious theory of the “unitary executive”—better known as “If the President does it, it’s legal....”

http://en.wikipedia.org/wiki/John_Yoo.)

defendants can raise the legal memos as a defense. (Most of Yoo’s memos can be found at: prosecution less likely for anyone that follows them, even if they have committed crimes. The Many refer to OLC legal memos as “get out of jail free cards” as they make the likelihood of write these legal memos to provide legal cover for the Bush regime to carry out various crimes. wrote the Bush regime to proceed with its agenda. He was asked to as to what is legal or illegal for the executive branch of government and that is why what Yoo branch while he was in DOJ’s Office of Legal Counsel (OLC). OLC is generally the “last say” Yoo authored or co-authored many memos that provided “legal” guidance to the executive

John Yoo’s memos gave “legal cover” for Bush regime crimes

READ MORE ABOUT YOO & THE LACKAWANNA SIX—
“Setting the stage for martial law and a police state” at
www.FireJohnYoo.org