

## WHY PROTEST JOHN YOO

John Yoo authored memos for the U.S. Department of Justice's Office of Legal Council that were kept secret but treated as law despite their blatant conflict with actual existing law. Many of these memos are now public.

There exists far beyond probable cause to try John Yoo for conspiracy to engage in aggressive war, which is banned by the U.N. Charter, a treaty to which the United States is a party. Article VI of the U.S. Constitution makes such treaties the supreme law of the land. Memos from Sept. 25, 2001, and Oct. 23, 2002, purport to give presidents the power to launch aggressive wars in violation of the U.N. Charter and of the requirement found in the U.S. Constitution and in the War Powers Act that Congress make such decisions.

John Yoo authored memos that constitute far beyond probable cause for indictment for conspiracy to torture. This act is not only a treaty violation, but also a felony under the U.S. Code: 18 § 2340A-c and § 2441.

Yoo's memos authorized spying without warrants, in violation of the Fourth Amendment and various statutes, and imprisoning without charge in violation of the Constitutional protection of habeas corpus.

Yoo's position is that he merely "interpreted" law to bestow these apparently illegal powers on presidents, although his interpretation involved asserting that during "war time" there can be no limits on a president's powers. In public comments, Yoo has claimed that a president has the right to crush a child's testicles, massacre a village, or drop nuclear bombs on cities. Yoo should be asked whether there are limits to this -- how many cities can a president "legally" destroy? Yoo should be asked whether other nations' presidents can "legally" do the same.

If bestowing absolute power on presidents constitutes "interpretation", it is fair to ask what wouldn't, as well as why it had to be kept secret, and why the record so clearly shows that Yoo "legalized" everything he was asked to legalize. What would constitute misconduct for a government interpreter of laws? Yoo's crimes are so apparent to most legal observers that Spain has begun an investigation into whether it can indict Yoo and some of his colleagues, but Spain is facing intense pressure from the White House not to do so.

The ethics office in Bush's Department of Justice produced a report that found that Yoo "committed intentional professional misconduct" in his authorship of memos authorizing torture. That finding obligates the same department, under the Convention Against Torture, to prosecute. However, a top official in Obama's Department of Justice has overruled that finding and declared, without any substantive basis, that Yoo's actions in this area were not misconduct. That baseless decree does not undo the responsibility to enforce the law. Nor does it in any way interfere with bar associations' efforts to disbar Yoo as a lawyer, or congressional efforts to subpoena or investigate.

On June 12, 2009, a U.S. federal court ruled that one of the victims of the torture Yoo helped authorize, Jose Padilla, had grounds to sue him for damages. The court took 42 pages to refute each of Yoo's arguments.

"Looking backward" is required here because law enforcement always and in every single instance "looks backward." We do not prosecute future crimes. But we prosecute and punish, when we are thoughtful, in order to shape the future. Right now, aggressive wars, torture, lawless imprisonment, and warrantless spying are continuing because Yoo and his co-conspirators have not yet been prosecuted. And they are not being prosecuted because the new president is continuing the crimes. We must raise our voices for the rule of law.

Yoo has helped to deny fair trials to thousands of innocent prisoners. We should not do the same to him. He should have a fair and swift trial and be considered innocent until proven guilty. The president has publicly instructed the attorney general not to prosecute -- the type of instruction that would have led some earlier attorneys general to resign in protest.

Because the grounds for Yoo's arrest are so apparent, and the basis for not arresting him so corrupt, Yoo's claims to academic freedom are weakened along with his claims to freedom from indictment. Grounds for protesting his appearances and educating people about his abuses are, in contrast, strong indeed.