

John Yoo and the “Torture Memos”

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NATIONAL LAWYERS GUILD CALLS ON BOALT HALL TO DISMISS LAW PROFESSOR JOHN YOO,
WHOSE TORTURE MEMOS LED TO COMMISSION OF WAR CRIMES

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New York. In a memorandum written the same month George W. Bush invaded Iraq, Boalt Hall law professor John Yoo said the Department of Justice would construe US criminal laws not to apply to the President's detention and interrogation of enemy combatants. According to Yoo, the federal statutes against torture, assault, maiming and stalking do not apply to the military in the conduct of the war.

The federal maiming statute, for example, makes it a crime for someone “with the intent to torture, maim, or disfigure” to “cut, bite, or slit the nose, ear or lip, or cut out or disable the tongue, or put out or destroy an eye, or cut off or disable a limb or any member of another person.” It further prohibits individuals from “throwing or pouring upon another person any scalding water, corrosive acid, or caustic substance” with like intent.

Yoo also narrowed the definition of torture so the victim must experience intense pain or suffering equivalent to pain associated with serious physical injury so severe that death, organ failure or permanent damage resulting in loss of significant body functions will likely result; Yoo's definition contravenes the definition in the Convention Against Torture, a treaty the US has ratified which is thus part of the US law under the Constitution's Supremacy Clause. Yoo said self-defense or necessity could be used as a defense to war crimes prosecutions for torture, notwithstanding the Torture Convention's absolute prohibition against torture in all circumstances, even in wartime. This memo and another Yoo wrote with Jay Bybee in August 2002 provided the basis for the Administration's torture of prisoners.

“John Yoo's complicity in establishing the policy that led to the torture of prisoners constitutes a war crime under the US War Crimes Act,” said National Lawyers Guild President Marjorie Cohn.

Congress should repeal the provision of the Military Commissions Act that would give Yoo immunity from prosecution for torture committed from September 11, 2001 to December 30, 2005. John Yoo should be disbarred and he should not be retained as a professor of law

at one of the country's premier law schools. John Yoo should be dismissed from Boalt Hall and tried as a war criminal.

The National Lawyers Guild was founded in 1937 as an alternative to the American Bar Association, which did not admit people of color, the National Lawyers Guild is the oldest and largest public interest/human rights bar organization in the United States. Its headquarters are in New York and it has chapters in every state.

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