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2-16-2019

February 16, 2019: John Yoo, War Criminal

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Title: John Yoo, War Criminal

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2/16/2009—I just had a series of exchanges on Twitter concerning John Yoo, author of the 2002 Torture Memos that gave as a legal opinion the view that coercive techniques could lawfully be employed in the War on Terror. Yoo was Deputy Assistant Attorney General at the time. There was a series of memoranda, but the fundamental ideas were three—a strained interpretation of illegality that defined waterboarding, for example, as not prohibited by statute or treaty, an understanding of executive power that concluded that any congressional limits would be an unconstitutional infringement of the President's war powers and an interpretation of the necessity defense that would allow almost any actions to be justified by the threat of terrorism. This period was a stain on the honor of the United States. And the author should be regarded as a war criminal. Yet, somehow, Yoo has escaped all blame. He is the Emanuel S. Heller Professor of Law at Berkeley. In a world in which blackface disqualifies someone from public office and even the allegation of sexual assault is taken as condemnation, the justification of torture does not affect the public life of John Yoo. I once tried to get the authors of my casebook at least to take any opinion of Yoo out of the book. You would think that the AALS would pass a resolution condemning him. That he would be shunned. But none of this has happened. Nor has he ever apologized. My Twitter exchange had to do with abortion. I will say here what I said there. A nation that tortures its enemies will never embrace the sanctity of life. It has already decided that the ends justify the means.