

# The Huffington Post

April 21, 2009



## Jeremy Scahill

Journalist, author, "Blackwater: The Rise of the World's Most Powerful Mercenary Army"

Posted April 20, 2009 | 11:28 AM (EST)

## Impeach Bybee: The Growing Movement to Unseat Bush Torture Lawyer Turned Federal Judge

*While the leadership of the Democratic Party remains silent on Obama's refusal to hold torturers accountable, activists are demanding a special prosecutor and calling on Congress to impeach Jay Bybee.*

In the Sunday *New York Times*, the paper's editors call for the impeachment of Judge Jay Bybee, author of one of the now infamous [torture memos](#) released last week. Bybee is now a federal judge. In its editorial, "The Torturers' Manifesto," the *Times* [argued](#):

[The] investigation should start with the lawyers who wrote these sickening memos, including John Yoo, who now teaches law in California; Steven Bradbury, who was job-hunting when we last heard; and Mr. Bybee, who holds the lifetime seat on the federal appeals court that Mr. Bush rewarded him with.

These memos make it clear that Mr. Bybee is unfit for a job that requires legal judgment and a respect for the Constitution. Congress should impeach him. And if the administration will not conduct a thorough investigation of these issues, then Congress has a constitutional duty to hold the executive branch accountable. If that means putting Donald Rumsfeld and Alberto Gonzales on the stand, even Dick Cheney, we are sure Americans can handle it.

Of course, Rumsfeld, Gonzales, Cheney, Bush and a slew of others belong on trial with Bybee, not just as witnesses in his case and the *Times* should be calling for that as well. But let's remember, this is the paper that the Bush administration used as a conveyor belt for its deadly lies so expectations of it should be low.

In a recent [piece](#) for *Slate*, "Impeach Jay Bybee: Why should a suspected war criminal serve as a federal judge?," Yale law professor Bruce Ackerman lays out some of Bybee's history:

"Jay Bybee is currently sitting on the 9th U.S. Circuit Court of Appeals in San Francisco. As assistant attorney general in President George W. Bush's Justice Department, he was responsible for the notorious torture memos that enabled the excesses at Abu Ghraib, Guantanamo, and other places. While John Yoo did most of the staff work for Bybee, Yoo was barely 35 years old -- and his memos showed it. They not only took extreme positions; they were legally incompetent, failing to consider many of the most obvious counterarguments. Bybee was 49. He was the grown-up, the seasoned jurist. He had been a law professor and had served as associate counsel to President Bush. When he was promoted to head the Justice Department's Office of Legal Counsel, he became the final judge of legal matters within the executive branch. Yet his opinion on torture was so poorly reasoned that it was repudiated by his very conservative successor, Jack Goldsmith."

[David Swanson](#), the ever vigilant crusader for holding Bush era criminals accountable for their crimes, has started a website [ImpeachBybee.org](#) which contains resources on Bybee and how people can sign a petition calling for his impeachment.

While Obama has made clear that he does not intend to prosecute CIA torturers and their bosses and lawyers, saying it is "time for reflection, not retribution," not everyone in his party is in agreement. As previously reported, [Representative Jan Schakowsky](#), has been outspoken on this issue, as have [Senator Russ Feingold](#) and Representative Jerrold Nadler. But the leadership of the Democratic Party has, predictably, been silent. Indeed, Nadler was the first Democrat [to call](#) for the appointment of a Special Prosecutor. On Friday, Nadler released a [statement](#), saying:

"These memos make it abundantly clear that the Bush administration engaged in torture. Because torture is illegal under American law - as the U.S. is a signatory to the Convention Against Torture - we are legally required to investigate and, when appropriate, to prosecute those responsible for these crimes.

"I commend President Obama for his unequivocal rejection of torture and for his resolve to move forward. The President's intentions are honorable, but don't go far enough. All history teaches us that simply shining a light on criminal acts without holding the responsible people accountable will not prevent repetition of those acts.

"I have previously urged Attorneys General Gonzalez and Mukasey to appoint a special prosecutor to investigate the torture abuses of the Bush administration, and now I will convey that same necessity to President Obama and Attorney General Holder. We sorely need an independent investigation that will provide accountability for these terrible crimes.

Meanwhile, Bob Fertik at Democrats.com is circulating a [petition](#) to Congress with five primary demands:

1. Demand the appointment of a **Special Prosecutor** by Attorney General Eric Holder for torture, warrantless wiretapping, and other heinous crimes of the Bush Administration.
2. Prohibit the use of **any** taxpayer dollars to defend government officials who committed such crimes against lawsuits, or to pay for judgments against them.
3. Impeach Judge Jay Bybee, the torture memo author who serves on the Court of Appeals for the Ninth Circuit in California.
4. Protect human rights by restoring Habeas Corpus and the Fourth Amendment (search and seizure), including repeal of the Orwellian-named Protect America Act, U.S.A. Patriot Act, the FISA Amendments, and Military Commissions Act.
5. End secret government by prohibiting use of "State Secrets," "Sovereign Immunity" and "Signing Statements."

The Obama administration has a moral and legal responsibility to prosecute Bush era criminals. The UN has [indicated](#) that Obama's refusal to prosecute torturers may be a violation of International law. As for US law, Michael Ratner, president of the Center for Constitutional Rights said, "Whether or not to prosecute law breakers is not a political decision. Laws were broken and crimes were committed. If we are truly a nation of laws ... a prosecutor needs to be appointed and the decisions regarding the guilt of those involved in the torture program should be decided in a court of law."

Comments like "reflection not retribution" and "look forward, not backwards," are insulting to the rule of law and the cause of justice.

Read more from [Jeremy Scahill](#) at [RebelReports.com](#)