

# Gonzales nomination hearing: US Senate welcomes a war criminal

**Bill Van Auken**  
**8 January 2005**

Virtually all of the news reports of Alberto Gonzales's appearance before the Senate panel considering his nomination as US attorney general had similar headlines: "Gonzalez repudiates torture," "Gonzales disavows torture tactics," "Gonzales says he's opposed to torture."

The testimony highlighted in these reports is, in fact, a lie. More fundamentally, however, the focus on whether or not the nominee for the office charged with upholding the US Constitution is for or against the barbaric methods associated with Nazism and military dictatorships is a stark indication of the terminal degeneration of American democracy.

The hearings had a farcical character. There was a pretense of "tough questioning" for the nominee, whom, as everyone present was well aware, is deeply complicit in war crimes. No one was "tough" enough to suggest that Gonzales should be behind bars rather than occupying the chief law enforcement position in the US. Nor did a single Democrat even go so far as to declare that Bush's lawyer should be denied the nomination.

In what is now a standard device for blocking any unflinching examination of the issues at hand, much was made of Gonzales's ethnic background.

Democrats and Republicans fell over each other in heaping praise upon the nominee for his Mexican-American roots and celebrating his nomination as some kind of Horatio Alger story, proving American racial equality. Gonzales himself claimed his ethnic background gave him a special sensitivity to civil rights.

All of this is nonsense. Gonzales's rise has proven only that a lawyer willing to work on the behalf of the wealthy and powerful against the poor and oppressed, and who has no compunction about turning the law inside out to serve corporate interests, can go far in American bourgeois politics, whatever his or her background.

This career path took Gonzales from a law firm where he worked for the corporate criminals at Enron, to the Texas state house, where he exhibited his love of civil rights by helping George W. Bush sate his appetite for executing human beings, no small number of them Latinos. He then followed Bush to the White House, where his ability to justify and rationalize crimes in high places took on global significance.

As far as his Hispanic heritage goes, the operative tradition is that of Torquemada and Augusto Pinochet.

After Gonzales delivered his opening remarks Thursday, the first question came from the Senate Judiciary Committee's Republican chairman, Arlen Specter of Pennsylvania: "Do you approve of torture?"

"Absolutely not, Senator," Gonzales replied earnestly. Pressed on

the issue by the panel's ranking Democrat, Senator Patrick Leahy of Vermont, the nominee insisted that any questions about whether the US president has the power to authorize torture were "hypothetical" because the White House and the Justice Department had issued formal statements disavowing the practice.

Just a day after Gonzales appeared before the Senate panel, Army Specialist Charles Graner Jr. was hauled before a court martial at Fort Hood, Texas, to face charges of mistreating detainees, assault and dereliction of duty in connection with the systematic torture and sexual humiliation of Iraqi prisoners in the cellblocks of Abu Ghraib.

Graner and the half-dozen other junior enlisted personnel who have faced prosecution for their heinous actions at Abu Ghraib do not enjoy the luxury of citing the latest government memos and dismissing the issue of torture as "hypothetical." He faces 17 years in prison, and the others could also get lengthy jail terms.

Attorneys for the soldier are invoking the infamous defense attempted by the Nazi war criminals at Nuremberg: he was only following orders.

The attorneys do not have to reach back to the German Nazis for such a defense, however. Attorney general nominee Gonzales articulated the same legal thinking little more than two years ago.

Gonzales's version of the "only following orders" strategy was part and parcel of the August 21, 2002, memorandum that has been the center of the controversy surrounding his nomination.

The memo was drafted by an attorney at the Justice Department's Office of Legal Counsel, at Gonzales's request. It redefined torture to exclude anything that did not involve "serious physical injury, such as organ failure, impairment of bodily function or even death."

Gonzales and his cohorts explicitly discussed such techniques as "water-boarding," in which the victim is strapped down and submerged under water until he begins to lose consciousness, the use of attack dogs, sensory deprivation, "stress positions" and mock executions as permissible under the ruling.

A number of these techniques were widely used by US-backed military dictatorships in Latin America as well as by the Iraqi regime of Saddam Hussein. Others not discussed, but used both by such regimes and by US forces in the "global war on terrorism," include electric shock, throwing acid on detainees, burning them and severe beatings.

Gonzales explicitly advanced the position that the president has the authority to override both domestic law and international treaties in authorizing torture. The memo he solicited stated that officials would be immune from prosecution for torture if they were carrying out the president's orders as "commander-in-chief."

It was on this basic issue that Gonzales refused to back down. The

question that he refused to answer—on the grounds that it was “hypothetical”—was whether or not the US president has the authority to defy the law and authorize torture.

As an ever-growing body of reports, testimony and evidence has made clear, there is nothing hypothetical about the question. The use of torture has now become endemic in the US military and the CIA, with a growing network of detention centers and torture chambers extending from Guantanamo Bay in Cuba, to Iraq, Afghanistan, Diego Garcia and many other facilities around the globe. Such an extensive operation could not be mounted without explicit approval from the top.

Moreover, Gonzales’s reasoning extends beyond the use of torture. His position is that in the “global war on terror,” the president can take whatever action he sees fit, running roughshod over the US Constitution and abrogating basic civil liberties that go back to the Magna Carta.

Thus, he provided the pseudo-legal rationale for declaring individuals—including US citizens—“enemy combatants” in order to imprison them indefinitely while depriving them of their rights not only to legal representation and a trial, but even to be formally charged. Similarly, he drafted the rationale for using military tribunals, without the right of appeal, in trying, imprisoning and even executing individuals targeted by the White House.

In short, Gonzales has functioned as the legal architect for an American dictatorship.

None of his Senate questioners—Democrat or Republican—chose to question Gonzales on these fundamental matters. The one Senator to raise the matter of holding individuals as “enemy combatants” in order to deny them the right to habeas corpus was Republican Senator Lindsey Graham of South Carolina, who lamented the recent US Supreme Court decision holding the practice unconstitutional. “It was the correct position to take,” he said, “but you lost.”

The muted reaction of the establishment media to the hearing was similarly revealing. The *Washington Post*, which previously spoke of the savage practices initiated under the legal rationale crafted by Gonzales as “war crimes,” commented that the nominee “missed an important opportunity to rectify his position.” It referred to Gonzales’s obstinate refusal to repudiate the August 2002 memo advising that the US president has the power to authorize torture and shield its practitioners from laws banning the practice.

The newspaper lamented the “blackening of US moral authority around the world” as a result of the torture advocated by the future attorney general. This was a common theme among the more critical members of the Senate committee as well. The problem, it seems, was not so much the atrocities themselves, but rather their adverse impact upon US standing abroad and the possible “blowback” that the practices could yield for US troops. The editorial concluded with the statement that senators “have reason for grave concern about Mr. Gonzales.”

The *New York Times* chastised Gonzales for “evading responsibility” for the White House sanctioning of torture, while conceding that he will be the next attorney general. It praised members of the Senate panel for having “aggressively” questioned the nominee and thereby demonstrating that “Mr. Bush had made the wrong choice when he rewarded Mr. Gonzales for his loyalty.” Cold comfort, indeed.

One newspaper that had no trouble finding its voice over the Gonzales nomination was the *Wall Street Journal*. Articulating the positions of the Bush administration’s principal base within the

financial and corporate elite, the newspaper welcomed the controversy surrounding the nominee as an opportunity to confront “all the glib and dangerous abuse of the word ‘torture.’”

In a January 6 editorial, the *Journal* went on to describe “water-boarding” in approving terms as a needed interrogation tool and to warn that anyone rejecting torture on civil liberties grounds is courting disaster.

“Do they really think...that Americans wouldn’t respond to a dirty bomb explosion in a major city with mass detentions of men with Islamic surnames, closed borders or worse?” the editorial asked. “This civil liberties catastrophe is precisely what ‘water-boarding’ is trying to prevent.”

This grim choice offered by the *Journal*—torture or dictatorship—is a false one. They are a package deal. The current administration seized upon the September 11, 2001, terrorist attacks to launch a long-planned illegal war of aggression and to abrogate fundamental democratic rights. As part of this war and attack on civil liberties, it has made torture a commonplace instrument of its military and intelligence forces.

With the nomination of Gonzales, the administration is not only vindicating all of these actions, but also signaling that it intends to consolidate a regime of presidential dictatorship based upon the amassing of extra-constitutional powers, government secrecy and outright political repression.

Gonzales’s confirmation in the Senate is virtually assured. The Democrats have no inclination or stomach to challenge the administration’s trajectory, and in Gonzales, the Bush administration is installing as attorney general someone who is unconditionally loyal and who can be counted upon to justify and defend all of its crimes.

As Specialist Graner goes on trial at Fort Hood, the man who drafted the policy that was put into practice at Abu Ghraib—and by rights should be in the dock with him—is being elevated to one of the most powerful positions in the US government, with speculation that he may subsequently receive a nomination to the Supreme Court.

Nothing could more comprehensively expose the criminality of the entire US ruling establishment and the two big-business parties, as well as of the Congress and the media.



To contact the WSWs and the Socialist Equality Party visit:

**[wsws.org/contact](http://wsws.org/contact)**