

Gonzales confirmed: war criminal to head US Justice Department

Joseph Kay
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On February 3, the United States Senate confirmed former White House Counsel Alberto Gonzales to be the new attorney general. With the vote, an individual closely associated with the most criminal actions and decisions of the Bush administration will fill the chief law office in the land.

A total of 36 Democratic Senators opposed the nomination, but the vote against Gonzales was largely for show. The Democratic leadership had already declared before the vote that the party would not attempt to filibuster the nomination, thus ensuring that Gonzales would be confirmed. A filibuster would require the support of only 41 of the Senate's 44 Democrats and would have prevented Gonzales from receiving an up-or-down vote.

Senate Minority Leader Harry Reid said February 1, nearly a week after the Senate Judiciary Committee approved the Gonzales nomination, "I think there was a general feeling going into the meeting [of Congressional Democrats] that this wasn't the time to filibuster."

In the full Senate vote, six Democrats supported confirming Gonzales, while two were not present. All Republicans voted for the nomination.

The 36 Democratic "no" votes came as something of a surprise. Before his confirmation hearings, Gonzales was expected to breeze through the Senate. It was only after he repeatedly stonewalled questions on his role in the production of the "torture memos" and systematically evaded questions on whether torture is legal under certain conditions that Democrats felt obliged to vote against his nomination.

Gonzales was at the center of discussions within the administration on the treatment of prisoners captured after the September 11, 2001, attacks. In internal administration memos, he argued that the Geneva Conventions should not be applied to either Al Qaeda prisoners or those captured during the war in Afghanistan.

Gonzales requested the writing of the now-infamous memo signed by then Assistant Attorney General Jay Bybee, which argued for a very narrow definition of torture under federal law to allow the broadest range of techniques. The memo also argued that the president has the constitutional authority as commander-in-chief to authorize the torture of prisoners as part of the "war on terrorism."

Throughout his tenure as White House counsel, Gonzales consistently advocated using the terrorist attacks as a pretext for granting the most far-reaching powers to the president. He argued that the president has the authority as the leader of the "war on terror" to declare unilateral war against any country without providing evidence of a threat to the United States, to detain prisoners for indefinite periods of time, and to order the torture of prisoners as well as their trial by military tribunals capable of imposing the death penalty.

In his testimony at Senate hearings in early January, as well as in subsequent answers he submitted to written questions, Gonzales failed to repudiate any of the positions he advocated as White House counsel.

Shortly before the Senate hearings, the Justice Department had issued a revised memo on torture that rescinded the very narrow interpretations of the Bybee memo. However, the new memo ignored the question of the constitutional authority of the president to authorize torture.

In his testimony, Gonzales refused to repudiate the conclusions of the previous memo. When asked whether American soldiers or intelligence agencies ever had the legal authority to "engage in torture under any circumstances," Gonzales replied that he "didn't believe so," but had to give his answer in writing to avoid "providing a misleading answer."

In his written answers to questions, Gonzales indicated that there were situations when torture is legal. In

particular, he said that the international Convention Against Torture (CAT) and associated US legislation on inhuman treatment has “a limited reach,” and does not apply to some “aliens overseas.” Regarding a presidential directive issued in February 2002 requiring that “detainees be treated humanely and, to the extent appropriate and consistent with military necessity, in a manner consistent with the principles of [the] Geneva [Conventions],” Gonzales noted that even the highly conditional language of the directive did not apply to the CIA.

Gonzales has repeatedly equivocated on whether the CIA has the legal right to torture prisoners, saying only that the CIA is bound by the CAT, federal law and the president’s public position that the US does not engage in torture. However, the Justice Department’s legal interpretations of this legislation, including its newly released memo, leave open the question of whether the CIA enjoys the legal authority to engage in torture.

Regarding the president’s right to order torture, and in general his right to ignore laws passed by Congress, Gonzales’s position has been consistent: If the President determines that a particular law abridges his rights as commander-in-chief, he is not bound by them.

In a written response to Patrick Leahy, the Democratic minority leader of the Senate Judiciary Committee, Gonzales stated that he “would be reticent to conclude” that a particular statute was unconstitutional, “and would make every reasonable effort if I am confirmed as attorney general to uphold and defend those statutes.” Whether “extraordinary circumstances might unduly interfere with the president’s constitutional authorities is a question that should only be approached with the greatest care and caution.”

Thus, the Senate has just confirmed as attorney general an individual who will “make every reasonable effort” to uphold the laws passed by Congress! But if a particular law is determined to infringe on presidential powers, then there is no guarantee that the law will be followed.

In response to a long series of written questions submitted by Democratic Senator Edward Kennedy, Gonzales refused to provide any information about his role in drafting the Bybee memo and other legal decisions during the first term of the Bush administration. He stated repeatedly that to provide any information about internal deliberations “would entail discussing classified information, which I am not at liberty to do.”

The New York-based Center for Constitutional Rights recently added Gonzales’s name to a war crimes

complaint filed against Secretary of Defense Donald Rumsfeld in Germany. In a letter to the German prosecutor, the chair of the International Law Committee of the Association of the Bar of the City of New York, Scott Horton, wrote, “Any serious criminal investigation and prosecution [of torture crimes] would certainly involve Gonzales.” CCR Vice President Peter Weiss has noted that Gonzales’s testimony before the Senate “demonstrates his involvement in setting policy where torture and inhumane treatment was authorized at the highest levels of the Bush Administration.”

With the confirmation of Gonzales, the Bush administration has ensured that the office of attorney general will be safely in the hands of someone who has proven his loyalty to the White House and will defend every anti-democratic measure it plans to carry out over the next four years.

An ever-growing body of evidence demonstrates that the torture of prisoners has become routine in Guantanamo Bay, in Iraq and at the various detention facilities run by the CIA around the world. While a handful of guards at Abu Ghraib prison have been prosecuted, the arch criminals, those who set the policy, have not been punished. Instead, they have been elevated or retained within the Bush administration.

Rumsfeld remains as secretary of defense. Former National Security Advisor Condoleezza Rice, who was also involved in the discussions on torture policy, has been elevated to secretary of state. Now, one of the principal figures involved in formulating this policy is to become the chief legal official in the administration. Nothing could more clearly demonstrate the advanced degeneration of democratic forms of rule in the United States.



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