

Bush White House crisis deepens: The contradictions of the Miers nomination

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The intensifying conflict within the Republican Party over the nomination of Harriet Miers to the Supreme Court has put on display the weakness and instability of the Bush administration, and the isolated and unpopular character of the right-wing elements who now dominate in official Washington. There is more than a little resemblance to a battle of scorpions in a bottle—both in terms of the narrow confines within which this conflict takes place, and in the intellectual and moral stature of the protagonists.

Right-wing media pundits have been near unanimous in their opposition to Miers, with columns blasting the selection from George Will, Charles Krauthammer, William Kristol and other usual Bush allies. The nomination was branded a bad joke, an insult to Bush's most diehard supporters, a capitulation to the Democratic Party, even a betrayal. A conference of right-wing activists, held Wednesday to mark 50 years of the founding of William F. Buckley's *National Review*, seethed with dissatisfaction over the Miers nomination.

Most representatives of the right-wing anti-abortion, anti-tax and anti-gay lobbies were hostile, with the exception of a few prominent Christian fundamentalist preachers who said they had received direct assurances from the White House that Miers was a certain vote on the high court for their positions on social issues.

James Dobson, head of Focus on the Family, reputed to be the most influential fundamentalist minister, said he was satisfied with Miers's views after a discussion of the nomination with Bush's top political adviser, Karl Rove. He refused, however, to say what Rove had told him, telling his audience, "You will have to trust me on this one."

In other words, the unelected televangelist is privy to information that the Bush administration intends to deny the Senate Judiciary Committee when it holds hearings on the Miers nomination next month. The White House has already made it clear that it will not release any documents on which Miers worked during her five years as staff secretary, deputy chief of staff and counsel to the president. And Miers will follow the example of John Roberts in refusing to answer direct questions about her views on the repeal of the *Roe v. Wade* decision legalizing abortion as well as other contentious social issues.

Ironies abound in the conflict over Miers. Republican politicians and pundits who claimed that it would amount to a breach of procedure to ask Roberts his views on abortion or gay rights now insisted such questions should be posed to Miers in the upcoming confirmation hearings. In the Roberts hearing, the White House denounced questions about the nominee's embrace of an ultra-conservative brand of Catholicism, branding it an unconstitutional religious test. But now the same spokesmen were touting Miers's affiliation to an evangelical Christian church to reassure the anti-abortion lobby and the anti-gay bigots.

In this conflict between rival right-wing factions, the charges by both sides carry an element of truth. Opponents of the nomination declared it to be the product of cronyism that revealed an insular, arrogant White House. They characterized Miers as intellectually mediocre and with little experience in constitutional law, a description reinforced by an incident during a Miers visit to Capitol Hill. Asked which Supreme Court justice she admired most, she replied, "Warren"—not distinguishing between the liberal chief justice Earl Warren and his conservative successor Warren Burger. After prompting, she settled on Burger, one of the seven justices who upheld abortion rights in the *Roe v. Wade* decision.

On the other side, White House spokesman Scott McClellan dismissed the critics of Miers as a tiny handful, saying, "I know sometimes there's a tendency to focus on what one or two individuals may say, but look at what all those individuals who know her so well are saying about her." The furor against Miers is indeed the product of a small minority. But it is this minority of Christian fundamentalists and other right-wing fanatics that is the main popular base of the Bush administration.

The whole process through which nominees to the Supreme Court are selected and confirmed has become increasingly undemocratic. Everything is done to keep the American people in the dark about the political and legal views of the reactionaries who are filling up the federal bench. The Senate Judiciary Committee hearings have been reduced to a sham, with nominees refusing to answer questions on the entirely spurious ground that to express an opinion would amount to "prejudging" the outcome of future cases.

No such stricture applies to the sitting justices on the Supreme Court, who regularly express their views both in legal rulings, speeches and other published writings. In other words, the ban on “prejudging” only applies to nominees facing a confirmation vote—they withhold their opinions in order not to alarm the public. Once confirmed to a lifetime position on the highest court, they can be as opinionated as they please.

The whole process of political evasion reached the point of farce at Bush’s press conference last week. He simultaneously claimed that the right-wing critics of Miers would be proven wrong, because he knew “her heart,” and that he had never discussed her views on abortion and did not know her opinion of *Roe v. Wade*, despite working with her constantly for five years, and knowing her for more than a decade.

Bush would not even reiterate his own well-known opposition to abortion rights in the context of the nomination. He merely described himself as “a pro-life president” but refused to say whether he sought the repeal of *Roe v. Wade*. “I’m not going to interject that kind of issue in the midst of these hearings,” he said, as though such issues were not at the heart of the attempt to shift the US legal landscape drastically to the right.

In his Saturday radio speech, Bush claimed that Miers would embody “judicial restraint” and not “legislate from the bench.” These terms are code words to assure the right-wing groups that the nominee will use her judicial position to impose their favored political nostrums: outlawing abortion, suppressing gay rights, suppressing all restrictions on corporate business, expanding the powers of police, prosecutors and presidents at the expense of democratic rights. Such policies are deeply unpopular with the American people, and therefore must be imposed by judicial fiat.

The nomination dominated the Sunday morning interview programs on the major television networks, which featured an array of extreme-right opponents of Miers—including the semi-fascist former presidential candidate Patrick Buchanan. These pundits were joined by Republican senators who either reserved judgment or expressed open opposition to the nomination.

One Republican, Senator Sam Brownback of Kansas, a fanatical anti-abortion conservative, blurted out the real reason for the distress on the far right with the Miers nomination. He had been hoping, he told the CBS program *Face the Nation*, for an explicitly anti-abortion nominee in order to provoke an all-out showdown with Senate Democrats, who have threatened a filibuster. This would give the Republicans, who hold a 55-45 majority in the Senate, the opportunity to change the rules to ban filibusters of all nominations, a procedure which was given the shorthand title of “the nuclear option” by the former Senate Majority Leader Trent Lott.

“I believe we could have overcome that filibuster,” Brownback said. “It would have required a bruising fight, changing the rules, but I think we’re at a point in time where we should have that discussion and debate.” In other words, the latest Supreme Court nomination was to be the occasion not

merely for installing one more hardened reactionary on the high court, but for putting an end to the last procedural restraint on the exercise of power by the Republican Party, which currently controls the White House, both houses of Congress and the majority on the Supreme Court.

This sentiment is widespread in the far right. As one Christian fundamentalist and former Bush adviser, Marvin Olasky, told the *New York Times*, “A whole lot of evangelical conservatives were eager for a rumble, to really fight it out with the devilish Dems.”

While sections of the ultra-right are howling because Bush has deprived them of the opportunity to suppress the last traces of opposition from the Democratic Party, their criticism of the White House for ducking an open ideological fight over the court vacancy is more than a little disingenuous.

The whole Bush presidency is based not on convincing the majority of the American people to embrace the ultra-right agenda, but on concealing the real implications of that agenda while it is carried out by stealth. Bush ran in 2000 as a “compassionate conservative,” a slogan selected precisely to disguise the brutality of the social policies his administration would carry out. He ran for reelection as a “war president,” using the September 11 terrorist attacks as an all-purpose cover for the program of social reaction.

In all these deceptions, Bush has relied above all on the collaboration of the Democratic Party, which represents not a genuine political opposition, but a second line of defense for an administration that is implementing a policy of war, destruction of social programs and attacks on democratic rights.



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