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Ex-military lawyers will oppose Gonzales

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WASHINGTON -- Several former high-ranking military lawyers say they are discussing ways to oppose President Bush's nomination of Alberto Gonzales to be attorney general, asserting that Gonzales' supervision of legal memorandums that appeared to sanction harsh treatment of detainees, even torture, showed unsound legal judgment.

Hearings before the Senate Judiciary Committee on the nomination are expected to begin next month. While Gonzales is expected to be confirmed, objections from former generals and admirals would be a setback and an embarrassment for him and the White House.

John Hutson, a retired rear admiral who served as the Navy's judge advocate general from 1997 to 2000, said that while Gonzales may be a lawyer of some stature, "I think the role that he played in the one thing that I am familiar with is tremendously shortsighted."

Gonzales, as White House counsel, oversaw the drafting of several confidential legal memorandums that critics said sanctioned the torture of terrorism suspects in Afghanistan and Guantanamo Bay, Cuba, and opened the door to abuses at the Abu Ghraib prison in Iraq.

A memorandum prepared under Gonzales' supervision by a legal task force concluded that Bush was not bound either by an international treaty prohibiting torture or by a federal anti-torture law because he had the authority as commander in chief to approve any technique needed to protect the nation.

The memorandum also said that executive branch officials, including those in the military, could be immune from domestic and international prohibitions against torture for a variety of reasons, including a belief by interrogators that they were acting on orders from superiors "except where the conduct goes so far as to be patently unlawful." Another memorandum said the Geneva Conventions did not apply to the conflict in Afghanistan.

Hutson, dean and president of the Franklin Pierce Law Center in Concord, N.H., said that Gonzales "was not thinking about the impact of his behavior on U.S. troops in this war and others to come. He was not thinking about the United States' history in abiding by international law, especially in the wartime context. For that reason, some of us think he is a poor choice to be attorney general."

Hutson said talks with other retired senior military officials had not yet produced a decision on how to oppose the selection, though testifying at the hearings was a possibility.

James Cullen, a retired Army brigadier general, said yesterday that he believed that in supervising the memorandums, Gonzales had purposely ignored the advice of lawyers whose views were not in accord with the conclusions he sought, which was that there was some legal justification for illegal behavior.

Cullen said the group of former military lawyers hoped to decide soon what specific action to take.