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Mr. Gonzales's Testimony

Editorial
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ALBERTO R. GONZALES missed an important opportunity yesterday to rectify his position, and that of President Bush, on the imprisonment and interrogation of foreign detainees. At the Senate Judiciary Committee's hearing on his nomination to be attorney general, Mr. Gonzales repeatedly was offered the chance to repudiate a legal judgment that the president is empowered to order torture in violation of U.S. law and immunize torturers from punishment. He declined to do so. He was invited to reject a 2002 ruling made under his direction that the infliction of pain short of serious physical injury, organ failure or death did not constitute torture. He answered: "I don't have a disagreement with the conclusions then reached." Nor did he condemn torture techniques, such as simulated drowning, that were discussed and approved during meetings in his office. "It is not my job," he said, to decide if they were proper. He was prompted to reflect on whether departing from the Geneva Conventions had been a mistake, in light of the shocking human rights abuses that have since been reported in Iraq, Afghanistan and the Guantanamo Bay prison and that continue even now. Mr. Gonzales demurred. The error, he answered, was not of administration policy but of "a failure of training and oversight."

The message Mr. Gonzales left with senators was unmistakable: As attorney general, he will seek no change in practices that have led to the torture and killing of scores of detainees and to the blackening of U.S. moral authority around the world. Instead, the Bush administration will continue to issue public declarations such as those Mr. Gonzales repeated yesterday -- "that torture and abuse will not be tolerated by this administration" -- while in practice sanctioning procedures that the International Red Cross and many lawyers inside the government consider to be illegal and improper.

Mr. Gonzales doesn't have the manner of a stonewaller; in his appearance yesterday he frequently demonstrated the modesty and good nature for which he is known. Senators from both parties rightly celebrated his rise from a childhood in poverty to high national office. The priorities he listed for himself as attorney general sounded like the right ones: "the protection of civil rights, the protection of our voting rights, the protection of our civil liberties." Mr. Gonzales said he is concerned about the spread of pornography and violent crime, as well as "the use of certain kinds of weapons in connection with those crimes." In significant respects, he probably would be a less ideological, less confrontational and less polarizing figure than the outgoing attorney general, John D. Ashcroft.

Yet Mr. Gonzales appeared willfully obtuse about the consequences of his most important judgments as White House counsel. He repeatedly misrepresented the war crimes that have occurred, suggesting they were limited to those shown in the photographs taken by the "night shift" at Abu Ghraib, when it is now documented that abuses occurred throughout Iraq, in Afghanistan and at Guantanamo and that they continued even after the photos became public. He again derided and mischaracterized the Geneva Conventions, claiming that they "limit our ability to solicit information from detainees" and prevent their prosecution for war crimes -- an interpretation at odds with that of the Joint Chiefs of Staff, the military's legal corps, the Red Cross, Secretary of State Colin L. Powell and decades of U.S. experience in war.

He was asked if he believed that other world leaders could legitimately torture U.S. citizens. He replied, "I don't know what laws other world leaders would be bound by." (The Geneva Conventions would be among them.) He was asked whether "U.S. personnel [can] legally engage in torture under any circumstances." He answered, "I don't believe so, but I'd want to get back to

you on that." He was asked whether he agreed, at least, with Mr. Ashcroft, who said he didn't believe in torture because it produced nothing of value. "I don't have a way of reaching a conclusion on that," he said. Those senators who are able to reach clear conclusions about torture and whether the United States should engage in it have reason for grave reservations about Mr. Gonzales.