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Unfit as attorney general

Editorial
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TWO MEMOS on the US treatment of detainees from Afghanistan and Iraq stand in the way of Alberto Gonzales becoming the next attorney general of the United States. At his confirmation hearing earlier this month, he neither disavowed the memos nor showed an understanding of how their denial of international protections to detainees could lead to the many cases of prisoner abuse reported by both the FBI and the International Red Cross. The Senate should reject his nomination.

In his testimony, Gonzales made frequent reference to the much-photographed instances of prisoner humiliation and abuse at Abu Ghraib, as though the naked-body pyramid and other abuses that Specialist Charles Graner was justifiably convicted of Friday were the worst of what has occurred. But the FBI and Red Cross reports as well as the military's own investigations of killings of prisoners make clear that some interrogators and guards crossed the line into torture or homicide. It is disingenuous of Gonzales not to acknowledge the link between permissive torture policies from Washington and acts of abuse that occurred not just at Abu Ghraib but in Afghanistan and Guantanamo as well.

In 2002 as White House counsel, Gonzales wrote a memo in which he called provisions of the Geneva Conventions regarding prisoners of war "obsolete" and "quaint" and said the United States could operate as though the conventions did not apply to the Afghan war. Indeed, some of the fighters captured during the 2001 war against the Taliban and Al Qaeda in Afghanistan might not have deserved the status of POWs.

But the Geneva Conventions -- and American law -- make clear that any battlefield detainee has that status until a "competent tribunal" puts him in the less protected category of "enemy combatant." As US Judge James Robertson noted in a ruling last November, the Geneva Conventions do not give any individual, including the president, the authority to say who deserves POW status. The White House counsel certainly lacks that authority.

The second memo that has damaged the US reputation worldwide was written in 2002 by a Justice Department official as a guide to interrogation techniques. The memo, which Gonzales discussed with administration officials, said a president has the power to authorize torture despite a 1994 US law banning it. At the confirmation hearing, Gonzales declined chances to repudiate that view.

The Sept. 11, 2001, attacks thrust the United States into a new kind of conflict in which useful intelligence from detainees is crucial. But Gonzales has been at the center of administration policy-making that set aside tried and true US and international rules governing the collection of this information. His blindness to the consequences of those policies makes him a poor choice for chief law enforcement officer of the nation.