

Alberto Gonzales's Real Offense: A Shill for Cheney-Bush War Crimes

by Edward Spannaus

"One Himmler was enough," was Lyndon LaRouche's stark reaction to President Bush's nomination of then-White House Counsel Alberto Gonzales, to become Attorney General of the United States, in November 2004. As Gonzales's career comes toward a close, LaRouche's characterization of his role as Nazi-like bureaucrat, facilitating the regime's evil deeds, has been more than vindicated.

In testimony submitted to the Senate Judiciary Committee on Jan. 6, 2005, LaRouche's spokeswoman Debra Hanania-Freeman told the Senate that Gonzales "has a well-documented record of recommending dictatorial powers for the President in pursuit of the 'war on terrorism,' recommendations which precisely parallel the type of legal advice provided to the Hitler regime in 1930s Germany."

The testimony submitted on LaRouche's behalf should have impelled to Senate to decisively reject the Gonzales nomination, thus avoiding the disaster with which the Committee found itself faced, in Gonzales's pathetic appearance before it on April 19.

This is what, in part, the LaRouche testimony advised the Senate, in January 2005:

"Alberto Gonzales is a man with no law-enforcement experience; his legal background is strictly in business and corporate law. What quality, therefore, so recommends him to President Bush, that he would be nominated for the position of the chief law enforcement officer of the United States?

"That sole quality, is Gonzales's obsequious personal loyalty to George W. Bush, the defining characteristic of which is Mr. Gonzales's willingness to stretch and pervert the law, to serve the interests and obsessions of his patrons.

"While this is evident in numerous areas in which he represented Bush family interests, either in private practice at the Vinson & Elkins law firm, or while serving in the Texas State government—and for the past four years, while serving as Counsel to President Bush—it is most flagrantly displayed in his handling of death-penalty cases for Governor Bush in Texas.

"I believe this is worth emphasizing, for it demonstrates a common thread which reappears later, in Mr. Gonzales's recommendations found in the 'torture memos.' In his disregard for truth, and his justification of the exercise of raw

Executive power, Mr. Gonzales follows in the evil footsteps of Carl Schmitt and those who provided the legal underpinnings for the Nazi dictatorship."

Cheney's Conduit

What the LaRouche testimony then presented, was that during the six years in which George W. Bush was governor of Texas, a record 152 persons were executed—more than any other governor had executed in modern U.S. history. For the first 57 of these, Bush made his final decisions based upon the recommendation of his legal counsel Alberto Gonzales—always *for* proceeding with the execution—with Gonzales invariably presenting only the prosecutor's version of the case, and failing to inform the governor of relevant legal issues that would mitigate in the accused's favor, including evidence of actual innocence.

As to Gonzales's deepest crimes—his role in facilitating and endorsing torture and flagrant violations of U.S. law and treaty obligations, the LaRouche testimony stated:

"In the White House, Gonzales has functioned as a conduit for legal theories and recommendations coming out of the Office of Vice President Dick Cheney, and Cheney's counsel David Addington. Gonzales has consistently passed on legal advice to the President in which he has told the President that he can exercise virtually unlimited, untrammelled powers in his role as Commander-in-Chief in time of war. Having no background himself in military law or international law, Gonzales consistently ignored the advice of military lawyers and military professionals from the uniformed services, as well as the advice of international lawyers and others in the State Department (even the Secretary of State himself), and has instead put his imprimatur on crackpot legal theories identified with the notion of the 'imperial Presidency.' "

The testimony went on to describe the precise parallels between the legal arguments presented to Bush by Gonzales on behalf of Cheney, Addington, et al., and those legal and policy arguments used by Hitler's Third Reich on the Eastern Front, to wit, that this is "a new kind of war, against a new kind of enemy," that the enemy did not deserve the protections of international law and treaties, and so forth.

The Threat of War Crimes Prosecutions

The essential facts of Gonzales's role in this respect were well known at that time of his confirmation hearings.

In January 2002, amidst a furiously raging dispute within the Administration as to how to deal with prisoners and suspected terrorists captured in Afghanistan, Gonzales submitted, over his own name, a secret memorandum actually drafted by Addington, warning the President that he and others were in the process of committing war crimes, as strictly defined under the Geneva Conventions, and anti-torture treaties and laws. The Gonzales/Addington memo then recommended a series of steps that should be taken which, it said, "substantially reduces the threat of domestic criminal prosecution under the War Crimes Act."

Within weeks of the submission of this memo, President Bush and the Administration did adopt the recommendations contained therein, to reject the application of the Geneva Conventions—with the disastrous consequences now well-known to the nation and to the world.

Also stressed in the LaRouche testimony, and in *EIR*'s coverage at the time, was the issue of the Justice Department's utter failure to enforce the 1965 Voting Rights Act; its purging of the Department's Civil Rights Division and its Voting Rights Section of experienced, competent lawyers; and replacing them with right-wing ideologues who were promoting GOP-sponsored voter-suppression efforts. This has, of course, now emerged as a key underlying issue in the 2006 purge of U.S. Attorneys under Gonzales's tenure as Attorney General, especially in New Mexico and Washington State.

It is essential to emphasize that the U.S. Senate was fully aware of all of this, when it confirmed Gonzales as Attorney General by a 60-to-36 vote on Feb. 3, 2005. Had the Democrats mobilized to do so, and shown real leadership, the nomination could have been blocked. And those Republicans who voted unanimously for Gonzales's confirmation, over the opposition of a group of distinguished retired military officers, now have no one to blame but themselves for the dilemma in which they find themselves.

Now, the only question is, how long the White House will persist in backing Gonzales, before bowing to the inevitable. With only one Republican on the Senate Judiciary Committee still fully supporting Gonzales, and an increasing number of Congressional Republicans calling for his resignation, it seems to be only a matter of time.

Why Gonzales Doesn't Recall

The *New York Times*' editorial characterization of Gonzales as giving the appearance, in his April 19 testimony, of a "dull-witted apparatchik" is totally apt. As numerous Senators, both Republicans and Democrats, noted, Gonzales couldn't remember meetings and events that took place only a few months ago, and he didn't seem to know how the Department of Justice, which he is in charge of, actually works. And

while claiming not to know the reasons that the various U.S. Attorneys were fired, he nonetheless insisted that nothing improper had been done. It got to the point where exasperated Democrats and Republicans alike agreed that there was no point in asking him further questions, because they weren't getting any answers.

However, it is just possible that Gonzales was actually telling the truth, when he repeated, close to 100 times, to the Senate Judiciary Committee, that, "I don't recall," "I don't remember," "I don't know," and the like. After all, one tends to remember things that are important to one's self, including those crucial decisions for which one takes personal responsibility.

But as we have seen, going back to the Texas death-penalty cases, up through the torture policy, NSA surveillance of Americans, and so on, Gonzales was just a pass-through, a cipher. He was the legal gatekeeper for the White House, passing along legalistic sophistry for Bush and Cheney, on how they could do what they were already determined to do anyway, and providing the legalistic cover for it.

It reminds one of the accountant, who, when asked "What's two plus two?" responds: "It's whatever the boss wants it to be."

On matters of much more importance than the firing of the U.S. Attorneys, Gonzales showed the same pattern of lack of recollection, and outright evasiveness, in his 2005 confirmation hearings. This was especially the case, with respect to the development of the Administration's torture and detention policies. This was noted by a number of Senators; the statements of Sen. Herb Kohl (D-Wisc.), preceding the Judiciary Committee vote on Gonzales's confirmation on Jan. 26, 2005, have a especially familiar ring today.

"We heard him [Gonzales] condemn torture generally, but refuse to discuss what he thought constituted torture," Kohl said. "We heard him commit to honor our international agreements, but waffle when asked when they apply. We heard him denounce the abuses that were committed in Iraq, but refuse to discuss whether they might be illegal. We heard him commit to hold any one involved responsible for their actions, but repeat pre-determined conclusions about what happened and who was to blame."

"When asked by members on this Committee about his views on these policies, and his role in shaping them, Judge Gonzales either could not remember, or was not responsive. When asked about whether he thought torture was ever productive, after more than two years of participating in discussions on the subject, he told the Committee, 'I have no way of forming an opinion on that.' He admits to attending meetings where specific methods of torture were discussed, but told the Committee that he cannot recall anything that was said."

And why should he? He was just the gatekeeper for those like Cheney, who have yet to be held accountable.