

Democrats cave in on torture: Key senators back attorney general nominee

By Bill Van Auken
3 November 2007

Two key Democratic members of the Senate Judiciary Committee announced Friday afternoon that they will support the Bush administration's nominee for attorney general, former federal judge Michael Mukasey, virtually assuring his confirmation as head of the US Justice Department.

Senator Charles Schumer of New York, who originally proposed Mukasey for the post, and Senator Dianne Feinstein of California said that they would vote in favor of the nominee. With the judiciary panel split 10-9 between the Democrats and Republicans—with all nine Republicans already committed to backing Mukasey—this assures that the nomination will go to the full Senate. As many as 20 Democrats are expected to back the nomination, giving a comfortable 70 votes for confirmation.

Schumer declared that Mukasey was not his “ideal choice,” but praised his “integrity and independence.” Feinstein declared, “He is not Alberto Gonzales,” who left the Justice Department in the face of the mounting scandal over the politically motivated firing of US attorneys.

Another Democrat on the Senate Judiciary Committee, Russ Feingold of Wisconsin, also indicated he may vote for Mukasey. Calling him a “marked improvement” over Gonzales, Feingold told the *New York Times*, “He may be the best nominee we can get from this administration.”

The rallying of crucial Democratic support for Mukasey has taken place in the context of a deepening controversy over the nominee's refusal to declare illegal the US government's blatant use of torture against those it has illegally detained around the globe.

Leading to an explicit defense of torture on the part of the administration and its supporters, the entire debate has served to expose the terminal decay of basic democratic processes and principles within the United States under the combined impact of colonial war abroad and the staggering growth of social inequality at home.

At the center of debate is the steadfast refusal of Mukasey to respond directly or truthfully to questions from the Senate Judiciary Committee on whether waterboarding—the brutal and agonizing practice utilized by the CIA, in which victims are strapped to boards and water is poured over a cloth covering the mouth while they slowly suffocate—constitutes illegal torture.

Bush spoke in support of Mukasey again Friday while in South Carolina for a campaign fundraiser for Senator Lindsey Graham, a leading Republican member of the Senate Judiciary Committee.

“I strongly urge the United States Senate to confirm this man, so that I can have an attorney general to work with to protect the United States of America from further attack,” said Bush.

The wording was significant in that it posed the paramount function of the US attorney general as that of the president's enforcer in the so-called war on terrorism. Upholding the Constitution, protecting the democratic rights of the people or enforcing the laws of the land as well as international law are all regarded as superfluous in comparison to this all-encompassing crusade in which all methods are valid, including wars of aggression, illegal detention, waterboarding and other forms of torture.

Meanwhile, one of the leading Republican presidential candidates, Fred Thompson, a former senator from Tennessee, weighed in on the debate over Mukasey, indicating that as president he would support waterboarding in the name of national security. “I've always thought that when you get right down to it, the measures have to meet the situation,” he said, after being asked if he would oppose the torture method.

Bush also received support for the Mukasey nomination from two of the most prominent newspapers in the country Friday.

In its lead editorial, the *Washington Post* lamented that “Mr. Mukasey is being judged not on his merits but as a proxy for Bush.” The editorial continued, “Yet critics of the nomination, while understandably disturbed by Mr. Mukasey's unwillingness to label waterboarding illegal, may be working against the last, best hope to see the rule of law reemerge in this administration.”

The distinction made by the *Post* between the criminality of the Bush administration and Mukasey's stonewalling during his Senate testimony is nonsensical. The nominee's “unwillingness to label waterboarding illegal” has only one motive. He knows full well that this practice is a violation of both national law and international treaties barring torture and he is well aware that Bush, Cheney, the CIA and the entire administration are criminally responsible for its use by American interrogators.

By dodging the question, Mukasey is protecting this criminality and making it clear that, like his predecessors, he will serve as a defender of the illegal acts of the White House. So much for the *Post's* claim that he represents the “last, best hope” for restoring the rule of law.

In feigning an even-handed approach, the *Post* goes on to suggest that, instead of barring Mukasey's nomination, the Senate should “do something which, for all the rhetoric, they have so far declined to do: ban torture.” Specifically, it called for the body to support a measure introduced by Senator Joseph Biden, a Delaware Democrat, requiring all US personnel, including the CIA, to limit themselves to interrogation methods approved in the US Army Field Manual. The document bans waterboarding, which has been recognized by the American military as a form of torture for more than a century.

From a legal standpoint, this is nonsense. The US Senate has passed bans on torture over and over again by ratifying the Geneva Conventions and Conventions against Torture, all of which make waterboarding an international war crime. There is more than enough legal authority to bring war crimes charges against Bush administration officials.

From a political standpoint, the *Post* points to the two-faced character of the Democratic opposition to torture. The Democrats will make noises in the Senate when they think it serves their political advantage. But they have refused to enact an explicit ban on waterboarding by the CIA, for fear of charges that they are “soft on terrorism.”

The Democrats also fear a constitutional confrontation with the White House. Both the administration and its nominee Mukasey have made it clear that they do not believe that the president is bound by such laws to the extent that they infringe upon his limitless power as commander in

chief under conditions of an unending war against terrorism.

Also weighing in on the Mukasey nomination Friday was the *Wall Street Journal* in an editorial entitled “Mukasey and the Democrats.” The *Journal*, whose editorial positions generally reflect the outlook of the extreme right-wing clique that determines the policies of the Bush administration, not surprisingly defended not only the nominee but torture itself.

The editorial finds it incredible that Mukasey’s nomination has been placed in doubt when his only “supposed offense is that he has refused to declare ‘illegal’ a single interrogation technique that the CIA has used on rare occasions against mass murderers.” In plainer words, what’s all the fuss about a little torture against people who had it coming any way?

The *Journal* defended Mukasey’s refusal to state an opinion on waterboarding based on “hypothetical facts and circumstances,” on the grounds that he had not yet been briefed on “the classified interrogation details.” This was the same argument made by Bush the day before.

The “classified interrogation details” cannot add much to the public record. Waterboarding has been around since the Spanish Inquisition. Known at various times as the “water cure” or “Chinese water torture,” it has always been recognized as a means of torture. In 1902, an American officer was court-martialed for inflicting it upon insurgents in the Philippines. After World War II, Japanese military personnel were prosecuted for war crimes for using it against POWs.

Even the present-day US State Department denounces the practice as torture when it is used by other countries. When American personnel carry it out, however, it is defended as an “enhanced interrogation technique”—the same euphemism employed by the Nazis—that is indispensable in the war on terror.

Mukasey’s evasion of the question means only that he will continue the practice of his predecessors of defending torture and protecting the chief torturers in the White House. And that is fine with the *Journal*.

“What’s really at stake here is whether US officials are going to have the basic tools required to extract information from America’s enemies,” the paper declares. It continues: “As for waterboarding, it is mostly a political sideshow. The CIA’s view seems to be that some version of waterboarding is effective in breaking especially tough cases quickly.”

The Gestapo, it might be added, was of the same opinion. While the scale of the latter’s use of these methods was no doubt greater than that of the American intelligence agencies, the underlying contempt for international law, democratic rights and human dignity are much the same.

In concluding its editorial, the *Journal* makes the partisan—though legitimate—point that the Democrats’ outrage over Mukasey’s position on waterboarding is largely cynical.

It quotes a Democratic senator at a 2004 hearing: “I think there are probably very few people in this room or in America who would say that torture should never ever be used, particularly if thousands of lives are at stake.... It is easy to sit back in the armchair and say that torture can never be used, but when you are in the foxhole it is a very different deal. And I respect, I think we all respect the fact that the President is in the foxhole every day.”

The editorial identifies the senator as “New York Democrat Chuck Schumer, who recommended Judge Mukasey for Attorney General in the first place.”

Before announcing late Friday his decision to vote in favor of Mukasey, Schumer had maintained a studied silence on the nomination since the Senate confirmation hearings. On Friday, however, the *New York Times* quoted him as saying: “No nominee from this administration will agree with us on things like torture and wiretapping. The best we can expect is somebody who will depoliticize the Justice Department and put rule of law first, even when pressured by the administration. If Mukasey is that type of person, I’ll support him.”

How an attorney general can “put the law first” while defending torture and illegal wiretapping, the senior senator from New York did not bother to explain.

Going by their record the Democrats are virtually certain to let Mukasey’s nomination pass, while allowing all those for whom it is politically expedient—including the party’s presidential nominees—to vote against it. Such was the path taken in 2004 when the Democrats refused to filibuster the nomination of Alberto Gonzales as attorney general, even though it was known that he played a leading role in drafting the memos providing a pseudo-legal justification for torture.

The debate, in the end, has only served to expose once again the full complicity of the Democratic Party in the wholesale attacks on democratic rights carried out over the past six years, including the legitimization of torture.

It bears noting that, in focusing the debate on waterboarding, the Democrats have deliberately obscured other fundamental questions posed in Mukasey’s testimony. The nominee voiced his agreement with the position that the president as commander-in-chief has the inherent constitutional power to override the law in the name of national security.

It is this reactionary conception that underlies not only Mukasey’s backhanded defense of torture, but also his upholding of the legality of the National Security Agency’s domestic wiretapping program. Of course, on the latter issue, the Democratic-led Congress has already largely bowed to the demands of the White House for warrantless surveillance.

When pressed in the nomination hearing about his view that the president’s executive powers allowed him to override the law, the nominee answered: “We are not dealing here with black and white. Which is why it’s very important that push not come to shove, because the result could be not just divisive but disaster.”

None of the senators bothered to ask what kind of disaster Mukasey had in mind. The most obvious answer would be the imposition of an outright dictatorship.

Such are the ugly truths about the profound moral and political rot of the American ruling establishment that have been laid bare by the Mukasey nomination process.

Engaged in dirty wars of aggression and pursuing a predatory policy of colonial conquest in the Middle East and Central Asia, the American ruling elite has embraced torture as an instrument of policy. This has found its hideous expression in Abu Ghraib and in the secret prisons of the CIA around the globe.

Military aggression abroad is ultimately incompatible with democracy at home. That the criminal practice of torture is now openly defended in public debate in the US itself is a warning that America’s ruling financial oligarchy is prepared to jettison the last vestiges of democratic rights and employ these same methods at home in order to keep hold of its power and wealth.

To contact the WSWS and the
Socialist Equality Party visit:

<http://www.wsws.org>