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## American Freedom Campaign Urges U.S. Senate to Reject Mukasey Nomination

***Dismissive attitude toward the rule of law -- in addition to his position on torture -- makes Mukasey entirely unqualified to restore public's faith in Department of Justice***

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WASHINGTON – The American Freedom Campaign (AFC) is urging members of the Senate Judiciary Committee to reject the nomination of Michael Mukasey, former chief judge for the Southern District of New York, to be the next Attorney General of the United States. While AFC strongly believes that his failure to acknowledge that waterboarding is torture is a sufficient basis on its own to merit rejection, AFC is basing its recommendation on Mukasey's repeatedly expressed opinion that the rights and liberties of Americans should be a secondary concern to fighting the "war on terror." Mukasey has conveyed this sentiment in past writings and during his recent testimony.

During his testimony before the Senate Judiciary Committee last month, Mukasey actually claimed that the president should not be bound by federal law. When asked specifically whether the president is required to obey federal statutes, he said, "That would have to depend on whether what goes outside the statute nonetheless lies within the authority of the president to defend the country."

"It is that kind of attitude that led to the use of torture, the abuse of signing statements, and widespread and unconstitutional warrantless wiretapping," said American Freedom Campaign co-founder Naomi Wolf. "We are -- and we can only hope we will always be -- a government of laws, not of man -- or woman. It is not up to the president or other members of the administration to determine whether federal laws apply in a given situation."

"After the disastrous tenure of Alberto Gonzales," Ms. Wolf continued, "our next attorney general must be firmly committed to upholding the rule of law. Unfortunately, Michael Mukasey has demonstrated that he will place the whims and desires of the executive branch above both domestic and international law. This is simply unacceptable."

In an [op-ed](#) in the *Wall Street Journal* in 2004, Mukasey wrote: "A bill of rights was omitted from the original Constitution over the objections of Patrick Henry and others. It may well be that those who drafted the original Constitution understood that if you give equal prominence to the provisions creating the government and the provisions guaranteeing rights against the government -- God-given rights, no less, according to the Declaration of Independence -- then citizens will feel that much less inclined to sacrifice in behalf of their government, and that much more inclined simply to go where their rights and their interests seem to take them."

He went on to add in that same opinion piece: "[T]he hidden message in the structure of the Constitution -- is that the government it establishes is entitled, at least in the first instance, to receive from its citizens the benefit of the doubt. If we keep that in mind, then the spirit of liberty will be the spirit which, if it is not too sure that it is right, is at least sure enough to keep itself -- and us -- alive."

“These are simply shocking statements,” offered Ms. Wolf. “Mukasey is not only dismissive of the Bill of Rights, implying that it is less important than the original Constitution, but he also seems to believe that citizens should feel inclined to ‘sacrifice’ their rights and interests in behalf of their government. We need an attorney general who defends the rights of Americans against an overzealous administration, not one who thinks that Americans need to give government the ‘benefit of the doubt’ in order to stay alive.”

Mukasey, notably, was also one of the first federal judges to approve the Bush Administration’s use of the “enemy combatant” designation in order to hold individuals – including American citizens – for extended periods without charge. In the case of Jose Padilla, Mukasey ruled that the “President is authorized under the Constitution and by law to direct the military to detain enemy combatants in the circumstances present here, such that Padilla’s detention is not per se unlawful.” This decision was subsequently overturned by the Second Circuit.

“The Senate must decide whether it wants to install as attorney general a strong proponent of this kind of ‘preventive detention’ – without trial – for U.S. citizens,” added Ms. Wolf. “Since we cannot say for certain who President Bush will consider an ‘enemy combatant’ in the future, an attorney general with this predisposition is a chilling prospect.”

The American Freedom Campaign is an online and offline effort to build grassroots support to restore checks and balances and reverse abuses of power by the executive branch. The American Freedom Campaign was founded by MoveOn.org co-founder Wes Boyd, scientist and social entrepreneur William Haseltine, Fenton Communications CEO David Fenton, and Naomi Wolf, author of "The End of America" (Chelsea Green Publishing).

For more information, visit the American Freedom Campaign Web site – <http://www.americanfreedomcampaign.org> .