

### **Questions from Senator Cornyn**

1. Do you believe that the Supreme Court's decision in *Boumediene v. Bush*, which conferred constitutional habeas rights on aliens detained as enemy combatants at Guantanamo, was correctly decided?

**Answer:** I understand the Supreme Court's decision in *Boumediene v. Bush* to be the law of the land. I have not independently studied the underlying legal authorities, and thus do not have a personal view as to whether it was correctly decided.

2. Do you believe that the Supreme Court's decision in *Lee v. Weisman*, which held that a nonsectarian invocation at a public school graduation violated the Establishment Clause, was correctly decided?

**Answer:** I understand the Supreme Court's decision in *Lee v. Weisman* to be the law of the land. I have not studied the decision or made an independent study of the underlying legal authorities, and thus do not have a personal view as to whether it was correctly decided.

3. Do you believe that the Supreme Court's decision in *Zelman v. Simmons-Harris*, which ruled that school-choice programs that include religious schools don't violate the Establishment Clause, was correctly decided?

**Answer:** I understand the Supreme Court's decision in *Zelman v. Simmons-Harris* to be the law of the land. I have not studied the decision or made an independent study of the underlying legal authorities, and thus do not have a personal view as to whether it was correctly decided.

4. In *Kennedy v. Louisiana*, a case in which the Supreme Court ultimately struck down a Louisiana statute that allowed the death penalty for the aggravated rape of a child, a group of former law lords of the United Kingdom submitted an amicus brief. This brief cited the American Convention on Human Rights and statements of the United Nations Commission on Human Rights, the Inter-American Court of Human Rights, and the Inter-American Commission on Human Rights to argue that international law required that nations that retain the death penalty may not extend the death penalty to crimes to which it does not presently apply.

- a. Do you believe that international law forbids federal and state governments from broadening the application of the death penalty? Please explain your answer.

**Answer:** I have not studied the authorities relied upon in this amicus brief, and thus am not in a position to address the specific arguments advanced there. As a general matter, I understand that international law is binding on the United States to the extent it is embodied in treaties or other international agreements that have been duly ratified and thus have become the domestic law of this country. I also know that in the context of the Eighth Amendment's cruel and unusual punishments clause, Justices of the Supreme

Court have on occasion looked to the practices of other countries as one guide to decision. But so far as I am aware neither a ratified treaty nor any other Eighth Amendment consideration compels the result suggested in your question.