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## Habeas Corpus, R.I.P. (1215 - 2006)

By Molly Ivins

*With a smug stroke of his pen, President Bush is set to wipe out a safeguard against illegal imprisonment that has endured as a cornerstone of legal justice since the Magna Carta.*

**09/29/06 "TruthDig" -- -- AUSTIN, Texas**—Oh dear. I'm sure he didn't mean it. In Illinois' Sixth Congressional District, long represented by Henry Hyde, Republican candidate Peter Roskam accused his Democratic opponent, Tammy Duckworth, of planning to "cut and run" on Iraq.

Duckworth is a former Army major and chopper pilot who lost both legs in Iraq after her helicopter got hit by an RPG. "I just could not believe he would say that to me," said Duckworth, who walks on artificial legs and uses a cane. Every election cycle produces some wincers, but how do you apologize for that one?

The legislative equivalent of that remark is the detainee bill now being passed by Congress. Beloveds, this is so much worse than even that pathetic deal reached last Thursday between the White House and Republican Sens. John Warner, John McCain and Lindsey Graham. The White House has since reinserted a number of "technical fixes" that were the point of the putative "compromise." It leaves the president with the power to decide who is an enemy combatant.

This bill is not a national security issue—this is about torturing helpless human beings without any proof they are our enemies. Perhaps this could be considered if we knew the administration would use the power with enormous care and thoughtfulness. But of the over 700 prisoners sent to Gitmo, only 10 have ever been formally charged with anything. Among other things, this bill is a CYA for torture of the innocent that has already taken place.

Death by torture by Americans was first reported in 2003 in a New York Times article by Carlotta Gall. The military had announced the prisoner died of a heart attack, but when Gall saw the death certificate, written in English and issued by the

military, it said the cause of death was homicide. The “heart attack” came after he had been beaten so often on this legs that they had “basically been pulpified,” according to the coroner.

The story of why and how it took the Times so long to print this information is in the current edition of the Columbia Journalism Review. The press in general has been late and slow in reporting torture, so very few Americans have any idea how far it has spread. As is often true in hierarchical, top-down institutions, the orders get passed on in what I call the downward communications exaggeration spiral.

For example, on a newspaper, a top editor may remark casually, “Let’s give the new mayor a chance to see what he can do before we start attacking him.”

This gets passed on as “Don’t touch the mayor unless he really screws up.”

And it ultimately arrives at the reporter level as “We can’t say anything negative about the mayor.”

The version of the detainee bill now in the Senate not only undoes much of the McCain-Warner-Graham work, but it is actually much worse than the administration’s first proposal. In one change, the original compromise language said a suspect had the right to “examine and respond to” all evidence used against him. The three senators said the clause was necessary to avoid secret trials. The bill has now dropped the word “examine” and left only “respond to.”

In another change, a clause said that evidence obtained outside the United States could be admitted in court even if it had been gathered without a search warrant. But the bill now drops the words “outside the United States,” which means prosecutors can ignore American legal standards on warrants.

The bill also expands the definition of an unlawful enemy combatant to cover anyone who has “has purposefully and materially supported hostilities against the United States.” Quick, define “purposefully and materially.” One person has already been charged with aiding terrorists because he sold a satellite TV package that includes the Hezbollah network.

The bill simply removes a suspect’s right to challenge his detention in court. This is a rule of law that goes back to the Magna Carta in 1215. That pretty much leaves the barn door open.

As Vladimir Bukovsky, the Soviet dissident, wrote, an intelligence service free to torture soon “degenerates into a playground for sadists.” But not unbridled sadism—you will be relieved that the compromise took out the words permitting interrogation involving “severe pain” and substituted “serious pain,” which is defined as “bodily injury that involves extreme physical pain.”

In July 2003, George Bush said in a speech: “The United States is committed to worldwide elimination of torture, and we are leading this fight by example. Freedom from torture is an inalienable human right. Yet torture continues to be practiced around the world by rogue regimes, whose cruel methods match their determination to crush the human spirit.”

Fellow citizens, this bill throws out legal and moral restraints as the president deems it necessary—these are fundamental principles of basic decency, as well as law.

I’d like those supporting this evil bill to spare me one affliction: Do not, please, pretend to be shocked by the consequences of this legislation. And do not pretend to be shocked when the world begins comparing us to the Nazis.

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