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After Torture, What's Next?

By James Abourezk
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So, waterboarding is now okay. So is the suspension of one of our basic Constitutional rights - habeas corpus. Habeas corpus, according to the US Constitution, can only be suspended in cases of invasion or rebellion. Our Supreme Court has held that "habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action."

Abe Lincoln suspended habeas corpus during the Civil War, and even then it was a questionable act. And even more hopeless is that part of the law that permits President George W. Bush to interpret Common Article Three of the 1949 Geneva Conventions. Although Mr. Bush claims that the article is vague, no one before him has had any trouble understanding that torture is wrong, and in violation of international law.

But the suspension of habeas corpus in 2006 is not only unconstitutional because there is neither a rebellion nor have we been invaded, it is flat-out wrong.

The only rebellion we were faced with was the one begun by three Republican Senators - McCain, Graham and Warner. All three had served in the military, but McCain had actually spent time as a prisoner of war in North Viet Nam. Many of us cheered when he stood up to the president to say that if we permitted torture, which is what Bush and Cheney were trying to legalize, our own soldiers, sailors and airmen would be subject to the same brutalization as Mr. Bush was hoping to inflict on his "terror suspects."

But the rebellion was quickly quelled when McCain, Graham and

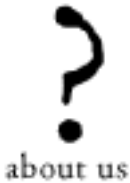
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Warner caved in and said that the compromise they had worked out with the president would both preserve our morals and get valuable information from enemy combatants.

First, people who are experts in interrogation of the enemy pretty much agree that torture doesn't work. Those being tortured will say anything they think their interrogators want to hear, just so the torture will stop. Secondly, the information, even if true, which is rare, in virtually every case is outdated by the time the torture is finished. Certainly no enemy would continue with plans known to someone who was captured.

But even more important, as former secretary of state and famous Army general Colin Powell said, we lose our moral high ground if we torture prisoners. To me, that is a hundred times more powerful a statement than the repetitious rantings of George W. Bush, who continually cites the mantra, "We are protecting Americans." That phrase, of course, is born of polling that says Americans want to be protected, and delivered by the likes of Karl Rove, who, if nothing else, knows demagoguery.

But the hottest place in political hell should be reserved for members of Congress, including the weak-kneed Democrats, who essentially went along with Mr. Bush's "compromise."

It did not seem to bother senators and representatives that habeas corpus is being suspended for enemy combatants. There is now no way to learn whether or not the prisoner is indeed an enemy, or just someone who was gathered up in a sweep of foreigners in Afghanistan, because, without habeas corpus, their detention cannot be tested in a court.

Senate Democrats, who in recent years have dug in to filibuster at the slightest provocation, this time merely stood up to record their opposition, knowing full well they would lose a straight up or down vote on the Bush compromise. But instead of really trying to stop the legislation, those who opposed it were content to make a speech and vote against it so they could later brag about their principled stand.

Everyone knew that was the Bush/Rove strategy - bring it up just before the elections so you can accuse the opposition of being soft on terrorism. It worked with the Iraq War resolution in 2002, so why not now?

My wife, who is from the Middle East, in fact from a country that

tortures its prisoners, was nearly in tears when, after hearing about the legislation, she told me that everyone in her home country always looked up to America as a beacon of freedom. But those who loved America as an idea would now feel completely alone.

President Bush continually says that "they" hate us because of our freedoms. That may explain why, in this legislation and in the Patriot Act, he is, piece by piece, trying to remove our freedoms. If this is his idea of protecting Americans, we really can't stand much more protection.

The public's opposition to this draconian law is the only thing that will give Congress the backbone to preserve our freedoms.

James Abourezk served as the US Congressman and Senator from South Dakota from 1973-1979. His memoir, Advise & Dissent: Memoirs of South Dakota and the US Senate, was published in 1989. Abourezk founded the American-Arab Anti-Discrimination Committee, and he is a signer of the "Call to Drive Out the Bush Regime" from World Can't Wait, which held protests in over 150 cities on October 5, 2006.

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