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## **Abused by the Senate**

Editorial  
Boston Globe  
November 14, 2005

PEOPLE IN the custody of the federal government should not be without basic human rights. The Senate needs to rescind its vote last week that would prevent 750 so-called "illegal combatants" at Guantanamo Bay, Cuba, from appealing their imprisonment in federal court.

Senator Lindsey Graham, Republican of South Carolina, offered this proposal because many inmates have filed suit in response to a Supreme Court decision saying they could challenge their detentions. "It is not fair to our troops fighting in the war on terror to be sued in every court in the land by our enemies," he said.

US troops are fighting to safeguard the United States, with its guarantees of personal liberty, not to have civil rights limited in the name of national security. Habeas corpus is a venerable principle of Anglo-American law under which prisoners can challenge their status in court. Congress has the power to limit it under extraordinary circumstances. The early phase of the Civil War, when Abraham Lincoln suspended habeas corpus to maintain Washington's lifeline to the North, met that criterion. The war on terror, for all its importance, does not.

Graham's proposal would exacerbate the Bush administration's blunder in classifying hundreds of people captured in Afghanistan as "illegal combatants," rather than regular prisoners of war who would be protected by the Geneva Conventions. They were imprisoned at Guantanamo Bay to hold them beyond the reach of any nation's law.

"After 9/11, the gloves came off," said a CIA official in testimony before a congressional committee in 2001, summing up the administration approach to the war on terror. This attitude led to the barbarism at Abu Ghraib prison in Iraq and enough reports of torture by the CIA and US forces in Afghanistan and Guantanamo Bay that the Senate, led by Graham and Senator John McCain of Arizona, voted 90-9 last month to insist on rules against future abuse.

The antitorture proposal is attached to the defense appropriations bill, the same measure that Graham amended to thwart prisoners' habeas corpus appeals. The Guantanamo amendment does provide Congress with oversight over military tribunals that adjudicate prisoners' status, but that still would keep them in a closed military system. The best protection against abuse is their ability to seek redress in civilian federal courts.

The amendment, never the subject of a hearing, was passed hurriedly on a 49-42 vote. Senator Jeff Bingaman, Democrat of New Mexico, will try to get the Senate to change its mind this week. To affirm the dignity of all human beings, the Senate should allow the Guantanamo Bay inmates to have their day in court.