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No Gain from Pain

Editorial
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Reversing a decision made last July, the Bush administration will issue a specific ban in its military trials of Guantanamo detainees of evidence obtained by torture. The reversal is welcome and overdue.

The original policy was to leave the question of admissibility up to the members of the military trial commissions, which meant they conceivably could have heard evidence gained by torture.

The turnabout comes as the Supreme Court prepares to hear arguments next week on the legality of the commissions. As the Wall Street Journal, which broke the story, noted, this followed a pattern by the Bush administration of changing its counterterrorism policies on the eve of high-court challenges to them. And, indeed, the detainees' lawyers have argued that the commissions are illegal in part because they are open to testimony obtained under extreme duress.

One argument against a specific written ban, according to a Pentagon spokesman, is that it "to some degree would erroneously suggest that torture had actually occurred." For that, the administration has only itself to blame, with its legal memos seeming to justify and the president specifically reserving the right to exempt himself from an anti-torture law he signed in December.

Torture is banned by U.S. law, international treaty and Pentagon directive, and so justice would require that military prosecutors not reap benefits from cruel and inhumane treatment.

Besides, if the Bush administration is being honest in insisting that we don't torture or ship captives to countries that do, the issue should be moot.