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Catch-22 for Guantanamo detainees

Editorial
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Perversely, the Guantanamo Bay detainees may be worse off under a new law designed to protect them from abusive treatment.

The McCain amendment to the Detainee Treatment Act quite rightly restates the longstanding American prohibition of cruel, inhuman or degrading treatment of detainees in U.S. custody. In short, we don't torture.

But that same law limits the detainees' access to U.S. courts. They may challenge their enemy combatant status and appeal the verdicts of military tribunals but they may not seek habeas corpus or protest their treatment.

Lawyers for detainee Mohammed Bawazir, a Yemeni who will have been in Guantanamo four years come May, charge that the prison authorities, to break a hunger strike, so roughly force-fed him through a large nasal tube that it amounted to torture.

The government says he wasn't tortured. District Judge Gladys Kessler says if Bawazir can prove his allegations, it is too torture and a violation of U.S. laws and treaties.

The Bush administration's answer is that even if Bawazir was tortured, the court can't do anything about it because of the Detainee Treatment Act. In other words, the law outlaws torture but the detainees have no right to have the law enforced.

Depending how the courts rule on the act, McCain et. al may have to redraft it, although it's hard to make it any clearer that "no torture" means "no torture." The legal limbo of the detainees does our nation no credit.