

The following text may be printed, copy/pasted, or downloaded and emailed.

McCain's Anti-Torture Amendments ; Senate Must Take a Stand on Treatment of Prisoners

Nat Hentoff (op-ed)
The Washington Times
September 19, 2005

My definition of what makes the United States different from all other countries begins with the Bill of Rights. It also extends to remarks made July 24 by Republican Senator John McCain of Arizona on the Senate floor as he was introducing amendments to the \$42 billion Pentagon authorization bill for 2006. The amendment concerned abuses of our detainees (prisoners). "Our enemy doesn't deserve our sympathy," Mr. McCain said, "but this isn't about who they are. This is about who we are."

The McCain amendments have been swept out of the media by the disastrous aftermath of Hurricane Katrina, the John Roberts' nomination and the eager envelopment of Cindy Sheehan by such clones of Michael Moore as MoveOn.org.

Affirming American values, Mr. McCain's first amendment would have established "the Army Field Manual as the standard for interrogation of all detainees held in the Department of Defense (DOD) custody." He noted that a new edition of the Army manual is due out soon, but his amendment would require that congressional defense committees be informed 30 days before any revisions.

In view of the bypassing of the Army Field Manual in Iraq, Guantanamo Bay and Afghanistan, resulting in the abuses of prisoners, "the revisions would have to be consistent with (our) laws and treaty obligations."

Tellingly, Mr. McCain added, "Had the manual been followed across the board, we could have avoided the prisoner abuse scandal." Mr. McCain's position is hardly radical, and, in fact, is strongly supported by several high-ranking former military officers and some of the military prosecutors enmeshed in the administration's version of "military commissions," that evade due process, at Guantanamo Bay.

Another McCain amendment, he told his colleagues, would have required that "each individual detained in a DOD facility who is a national of a foreign country be registered with the International Committee of the Red Cross. That's it. Just registered. This will help us eliminate the problem of ghost detainees we faced in Abu Ghraib prison in Iraq, in which other government agencies held unregistered detainees in a facility operated by our military. I believe this provision to be just basic common sense, and I can hardly see how anyone could object, though I don't doubt the sensitivity of my colleagues."

The White House did object to the amendments, and instructed Senate Majority leader Bill Frist to pull the whole Pentagon spending bill off the Senate floor lest the Senate pass the amendments with the bills.

A third amendment, which, like the others, was joined by Republican Sens. John Warner of Virginia and Lindsey Graham of South Carolina, himself a former military lawyer, would have prohibited the "cruel, inhuman and degrading treatment of anyone in American custody" - the very language of the U.N. Convention Against Torture, which this country has ratified. Obviously, that McCain amendment would not have been necessary if there wasn't a pattern of American detainees being treated in this way.

"We are Americans," Mr. McCain said on the Senate floor, "and we hold ourselves to humane standards of treatment of people no matter how evil or terrible they may be ... President Bush understands that the war on terror is ultimately a battle of ideas, a battle we will win by spreading and standing firmly for the values of decency, democracy and the rule of law. I stand with him in this commitment."

But if this is what President Bush believes, why are these amendments necessary to prevent a repeat of what was clearly and abundantly documented, not only by human-rights organizations, but also by some of our own military witnesses in the field? I hear reports that Mr. Warner (chairman of the Senate Armed Services Committee) may conduct an investigation of charges concerning the abuse of detainees. I would have preferred an independent inquiry by a commission, including former and present military judge advocate generals.

However, previous calls for an independent commission have gone nowhere. Instead, there have been whitewashes by purported investigations set up by the Defense Department. And, strangely, Messrs. McCain and Graham do not support a congressional investigation.

Mr. Bush, moreover, has expressed no interest in truly independent inquiries, and Attorney General Alberto Gonzales has rebuffed the idea. After all, Mr. Gonzales would be a witness concerning "the torture memos" he orchestrated when he was a counsel to the president.

If Mr. Warner does go ahead with an investigation, I hope he will remember Mr. McCain's words: "We are not simply any other country. We stand for something more in the world - a moral mission, one of freedom and democracy and human rights at home and abroad." Meanwhile, the McCain amendments remain attached to the Pentagon spending bill when it returns to the Senate floor. Will Mr. Bush veto that bill if it is passed with the amendments? Or will he take the democratic American alternative, and let a Senate vote on the McCain amendments stand if they're adopted? Or will he try again to have the entire bill pulled off the floor?

- Nat Hentoff's column for The Washington Times appears Mondays.