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## Regaining Respect

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Law matters, especially in time of war. This is true not only for moral reasons but also because adhering to the rule of law makes us stronger. We are now paying the consequences, "big-time" as the vice president might say, for a number of decisions made right after Sept. 11, 2001, that gave short shrift to both domestic and international law. The Bush administration determined to treat the attacks as a national security matter and not a law enforcement matter. That was the right emphasis, but they struck hard and largely ignored the law.

Nearly four years later there are signs that the administration realizes it's time -- long past time, really -- to start worrying about the law and its importance to this country in maintaining world leadership.

There are three steps that our country must take to restore our leadership and respect.

First, the president should convene a meeting of our principal allies to consider revisions in the Geneva Conventions. The administration's confusing and misguided interpretations of the Conventions in late 2001 set in motion a chain of events that, if not directly responsible for the abuses at Abu Ghraib, was clearly a contributing factor. The administration's aggressive interpretation of the Conventions obscured the reason this country was their leading champion for decades: We want our forces treated according to the Conventions when they are captured.

An international review that strengthened the Conventions would provide enhanced protection for our fellow citizens should they be captured. Some believe that the Geneva Conventions are adequate and need no revision. Others believe they should be updated, particularly with respect to whether terrorist groups should be entitled to protection. It's hard to understand why any person captured by the armed forces of any state should not have basic humanitarian protections, guaranteed by a treaty. Updating the Conventions could also clarify the limits of acceptable interrogation techniques.

Second, Congress should address the issue of detainees -- not only what to do with the detainees in Guantanamo Bay and at other U.S.-controlled locations around the world but also whether we need a preventive detention law of the kind some other democracies have. We made a big mistake in unilaterally locking these people up with no long-term plan as to what to do with them. The administration asserts that some of the detainees are determined to kill Americans and may need to stay locked up for the near future. Some are reportedly providing useful intelligence. But what criteria should be used to determine how long they are to be held? Who decides? What procedures are followed, and what rights should they have?

The president initially said he had full power to decide detainees' fates; they were essentially nonpersons, entitled to no rights. He even locked up two U.S. citizens, with no charges and no right to see a lawyer. That was too much for the Supreme Court. As Justice Sandra Day O'Connor wrote, "a state of war is not a blank check for the President when it comes to the rights of the Nation's citizens." And, more recently, U.S. District Judge James Robertson effectively halted the military commissions at Guantanamo by declaring that the prisoners may qualify as POWs under the Geneva Conventions. These decisions infuriated former attorney general John Ashcroft. He railed against "intrusive judicial oversight" as putting "at risk the very security of our nation in a time of war." Pesky judges. Pesky Constitution.

There may be a need to detain for extended periods persons who pose a clear and present threat. But the authority to do so should come from Congress, not a president's whim. Any such statute should set out clear criteria for detention and establish some independent periodic review to determine whether detention is still warranted.

Third, we should establish clear rules and procedures to govern renditions -- the practice of turning over individuals to third countries, where their fate is uncertain. There is much concern that the United States is sending people to countries such as Syria and Egypt knowing that they will be tortured. The United States has conducted renditions for decades, but mostly for law enforcement purposes. These days, however, renditions are often used to gather intelligence and to keep dangerous terrorists off the streets.

Such renditions are rational and needed. But they are tricky operations. We must be certain we get the right man. We must find a way to ensure that individuals who pass through our hands are not tortured.

The best solution would be for the president to issue an executive order governing renditions. If he does not, Congress should create a statute setting out the criteria and procedures.

Taking these steps will not, of course, immediately restore our leadership, reputation or influence. But we can never achieve our vital national security goals if we fail to reestablish our leadership position in the world.

Each of these measures would provide greater clarity to the men and women who must fight the war on terrorism. Some of our soldiers and intelligence officers who carry out the interrogations and renditions are facing investigations and possible prosecution. If they committed acts that are clearly outside the bounds, such as shooting a prisoner, they should be prosecuted. But it would be unconscionable to investigate and prosecute them if they were following rules that we later decided should be changed. If that happens, they served us but we will have failed them.