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## Force-Feeding Detainees

Nat Hentoff (op-ed)  
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As many as 130 of our prisoners at Guantanamo -- some held now for four years without seeing the key evidence against them -- have been engaging in a hunger strike in their desperation. Only four of them are still on a hunger strike, due to the ruthless efforts of military officers to stop the strike. Lawyers for some of these detainees have told me of the methods being used to force feed the desperate prisoners -- as also described on National Public Radio (Feb. 9) by another of their attorneys, Neil Koslowe.

The desperate hunger-strikers are put in a metal restraint chair which ties them down in six positions, and the officers "force open their mouths and then they shove down their mouths nutritional supplements mixed with milk of magnesia and other ingredients. The prisoners get nauseous, they vomit. They defecate over themselves. They urinate over themselves." Some, for hours a day, are kept in the metal chairs.

As Tim Golden reported in a front-page story in the Feb. 9 New York Times, this is being done because "the death of one or more prisoners (who starve themselves) could intensify the international criticism of the detention center." Deep in Mr. Golden's story is the further reason this classic definition of cruel and unusual punishment is taking place: "Detainees' lawyers said they believe that the tougher approach to the hunger strikes was related to the passage in Congress of a measure intended to curtail the detainees' access to United States courts."

The new law is the Detainee Treatment Act of 2005, passed by Congress and signed into law by President Bush on Dec. 30. It strips prisoners at Guantanamo of the habeas-corpus rights provided them by the Supreme Court in *Rasul et al. v. Bush* in 2004, when the Court ruled that prisoners at Guantanamo, "no less than American citizens," are entitled to the right of habeas corpus the basic American due-process right. (The first statute by the first Congress in 1789 was the Habeas Corpus Act.) After the Supreme Court's decision, nearly 100 habeas-corpus petitions were filed by lawyers for the prisoners. But on Jan. 6, acting swiftly on the basis of the Detainee Treatment Act, the Justice Department started asking judges to dismiss all these petitions.

The senator who first introduced this cruel-and-unusual punishment legislation later somewhat amended and co-sponsored by Sens. Carl Levin, Michigan Democrat, and Jon Kyl, Arizona Republican, is Sen. Lindsey Graham, South Carolina Republican. He said he wanted to stop our federal courts being flooded by insubstantial lawsuits.

The ultimate effect of Mr. Graham's handiwork overruling the Supreme Court is illuminated by Tom Wilner, an attorney for 12 Kuwaiti prisoners: "It tears the heart out of anything good from the (John) McCain prohibition against cruel, inhuman and degrading treatment of detainees.

"It prohibits them from suing U.S. officials for their treatment, and in new language slipped into the bill (during the House-Senate conference committee sessions) actually authorizes the tribunals at Guantanamo to use statements obtained through 'coercion' (that could include torture) as 'probative' testimony." Why has the principled Mr. McCain not protested this legislation publicly? This disgraceful treatment of prisoners is not only Mr. Graham's bitter legacy, but that of every member of Congress who voted for the Detainee Treatment Act and the president who signed it

As Mr. Wilner told me: "This law is a disaster a giant step backward for human rights. By eliminating the Great Writ (habeas corpus) and authorizing the use of coercion, it undermines the very foundation of our system." But once the military at Guantanamo heard the welcome news of this law, they felt free to deal with helpless and hopeless prisoners as they have with a Wilner client, Fawzi Al Odah. He is quoted in Golden's New York Times report as hearing "screams of pain" from a hunger-striker in the next cell as a thick tube was inserted into his nose.

At the other detainee's urging, Al Odah told (Mr. Wilner) that he planned to end his hunger strike the next day." In an Associated Press report on Al Odah's retreat, the prisoner explained, "I'm brave, but I'm not stupid. On the chair, I'll be restrained and unable to resist. They are determined to torture me." (Al Odah has not been accused of being part of Al Qaeda.) An official at Guantanamo told the Feb. 13 London Daily Telegraph: "We are proud of the fact that none of the detainees held at Guantanamo Bay had died since it opened." Congratulations. On Feb. 13, I saw on television a pack of White House reporters bedeviling Bush press secretary Scott McClellan on why they had not been told immediately of Vice President Dick Cheney's hunting accident. It didn't occur to any of them to ask Mr. McClellan if this compassionate president has any misgivings about signing the Detainee Treatment Act of 2005 and the resultant force-feeding.

Reporters, make note: There will be a hearing on this lawless law before the D.C. Circuit of Appeal on March 22.