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Tell Congress to Restore the Constitution

May 21, 2007

In the final hours before adjourning last year, Congress passed and the President signed the Military Commissions Act (MCA). In doing so they cast aside the Constitution and American values.

The MCA eliminated for certain persons the Constitution's due process protection of habeas corpus, the basic right to have a court decide if a person is imprisoned legally or illegally. The MCA allows our government to continue to hold hundreds of prisoners for more than five years without charges, with no end in sight.

In addition, the MCA lets any president declare - on his or her own - who is an enemy combatant, decide who should be held indefinitely without being charged with a crime, and define what is - and what is not - torture and abuse.

The Restoring the Constitution Act of 2007, introduced by Senator Christopher Dodd (D-CT), Congressman Jerrold Nadler (D-NY) and Congresswoman Jane Harman (D-CA), fixes the problems that the Military Commissions Act caused in undermining the Constitution and the rule of law. The legislation restores habeas corpus and due process to detainees at Guantanamo Bay and to other detainees held indefinitely by the federal government.



It also stops any president from arbitrarily deciding who is an enemy combatant and ensures that no one will be prosecuted based on evidence literally beaten out of a witness. The bill makes clear that the Constitution is the law of the land—and that no president can

make up his or her own rules regarding torture and abuse.

The Bush administration is working hard to stop this vital legislation, so Congress needs to hear from you now. Please contact your Members of Congress and tell them to defend due process, restore the Constitution, and protect what makes us Americans by cosponsoring the Restoring the Constitution Act of 2007.

Senator Charles E. Grassley (202) 224-3744

Senator Tom Harkin (202) 224-3254

Representative Bruce Braley (202) 225-2911

Representative David Loebsack (202) 225-6576

Representative Leonard L. Boswell (202) 225-3806

Representative Tom Latham (202) 225-5476

Representative Steve King (202) 225-4426

For more information check out <http://www.aclu.org/safefree/torture/detention.html>

Habeas corpus is a centuries-old legal procedure that protects against unlawful and indefinite imprisonment. It is a right that is even older than the United States.

Our nation's founders considered habeas corpus essential to guaranteeing our basic rights and enshrined it in the Constitution. Article I, Section 9 of the Constitution states, "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it."

Alexander Hamilton wrote in his Federalist Paper No. 84 "*The establishment of the writ of habeas corpus, the prohibition of ex post facto laws...are perhaps greater securities to liberty and republicanism than any [the Constitution] contains.*"

And Thomas Jefferson called the protections provided by habeas corpus one of the "*essential principles of our Government.*"

The MCA completely eliminates the constitutional due process right of habeas corpus for detainees at Guantanamo Bay and elsewhere. It allows our government to continue to hold hundreds of prisoners for more than five years without charges, with no end in sight.

Passage of the legislation was sparked by the Supreme Court's ruling in *Hamdan v. Rumsfeld* that the original military commission system established by President Bush to try detainees at Guantanamo Bay was unfair and illegal. The MCA ratifies key parts of the illegal commissions, reversing in part the Supreme Court decision.

Additionally, the MCA gives any president the power to declare - on his or her own - who is an enemy combatant, decide who should be held indefinitely without being charged with a crime and define what is – and what is not – torture and abuse. It permits convictions based on evidence that was literally beaten out of a witness, or obtained through other abuse by either the federal government or by other countries.

Two bills have been introduced in Congress that would restore habeas corpus rights to detainees. The Restoring the Constitution Act of 2007 would fix the problems that the MCA caused in undermining the Constitution and the rule of law. The bill makes clear that the Constitution is the law of the land—and that no president can make up his or her own rules regarding torture and abuse.

The Habeas Corpus Restoration Act would also restore the constitutional due process right of habeas corpus that was eliminated by the MCA.

The only thing scarier than a government that would take away our basic freedoms is a Congress and a people that would let it happen. Congress must restore habeas corpus, defend Constitutional rights, and protect the values that make us Americans.

For more information about habeas corpus and the MCA visit <http://www.aclu.org/safefree/detention/commissions.html>