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**COMMENTARY:
A FRESH ASSAULT ON OUR FREEDOM**

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COMMENTARY:

A FRESH ASSAULT ON OUR FREEDOM

A while back I did a commentary on “Stealth Totalitarianism,” a totalitarianism that’s far more subtle than tanks rumbling through the streets of some iron curtain city. Stealth totalitarianism is characterized by the silent but steady undercutting of our democratic institutions.

I talked about the substitution of the rule of the powerful for the rule of law; the increasing use of torture; reliance on secret prisons for inmates who may never face their accusers, may never see the evidence against them, and who may be held indefinitely without ever being charged with a crime; and, of course, an increasingly corrupt and unreliable electoral process where votes don’t always count. Remember Florida? Remember Ohio? These are the specific characteristics of Stealth Totalitarianism in the United States.

The pressures of the recent elections are accelerating these trends.

Pundits predicted major changes in the mid-term elections, perhaps even an historical party realignment. But President Bush and his congressional allies refused to walk away without a fight. They used the war on terrorism as a front to stay in power. Unfortunately, this strategy is also dismantling our basic constitutional rights and protections.

In one of the most egregious acts of demagoguery since the McCarthy years, President Bush

and his cheerleaders in Congress forced through the Military Commission Act (MCA), legislation that takes away habeas corpus rights from non-citizens.

So what? Why should we care about non-citizens, you may ask.

For one thing, the Supreme Court ruled twice in recent years that detainees at Guantanamo are protected by habeas corpus. The last time I checked the Constitution, the Supreme Court held equal footing with the Executive Branch, and the Executive was bound by its rulings. Every high school student knows about the separation of powers.

Second, we should understand that the casting aside of habeas corpus doesn’t only apply to inmates at Guantanamo. It applies to all non-citizens anywhere in the world. As Michael Ratner mentions in *The Nation*, thousands of people rounded up immediately following the terrorist acts of 9/11 had their day in court, thanks to their habeas corpus protections. They heard the charges against them, reviewed the evidence and then made their case. Interestingly, no one was convicted for an act

of terrorism. But the process worked and that's the American way. Well, at least it used to be the American way.

Third, we should probably care that habeas corpus has been the bedrock of democracy since the signing of the Magna Carta in 1215. By the way, didn't we fight a war back in 1776 when the British

took away our right to habeas corpus?

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The MCA goes beyond the suspension of habeas corpus. It allows the President to detain anyone — citizen as well as non-citizen — anywhere in the world whom he believes is an “unlawful enemy combatant.”

Now let's assume that

President Bush hears my commentary and views my outspoken support of constitutional government and the rule of law as supporting terrorists. Could he declare me an “unlawful enemy combatant” and have me arrested?

Yes!

The definition of an “unlawful enemy combatant” gives the President a great deal of leeway in applying it. Despite my habeas corpus protections as a citizen, it's unlikely I'd get out of prison in a hurry, if the round-ups after 9/11 are any indication. Now, I don't think things are so bad that I'd actually get arrested for making these statements, at least not yet. But I do know the enactment of the MCA now makes this scenario possible. That's scary.

Again, didn't we once fight a revolution to prevent this kind of stuff?

We sure did. But with the enactment of the MCA, the political demagoguery of the Bush administration is undercutting much of what the War of Independence was all about. To get reelected, Bush and his cronies are sacrificing basic constitutional protections. Given the willingness of thousands of Americans to give their lives in the fight for democracy, why are we taking the decline of our democratic institutions so quietly? Why is there no public outrage? Could it have something to do with the tight grip the corporate dominated media has on our culture. Or could it be something so simple as thinking it will only happen to the bad guys and not to me. Either way we're really in trouble. Big trouble.

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