

March 8, 2007

The Honorable Harry Reid
Majority Leader
United States Senate
Washington, D.C. 20510

The Honorable Mitch McConnell
Republican Leader
United States Senate
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
Washington, D.C. 20515

The Honorable John A. Boehner
Republican Leader
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressional Leaders,

We, the undersigned organizations, write to you in defense of America's freedoms.

We urge your support for and swift passage of legislation to restore the right of habeas corpus to non-citizens detained by the United States, a right which was eviscerated by Section 7 of the Military Commissions Act of 2006. Section 7 denies detainees designated as "enemy combatants," as well as persons awaiting enemy combatant designation, the right to a fair hearing in which to plead their innocence before a judge. Enemy combatant designations are made upon the flimsiest of evidence and are subject only to highly limited court review. Without the right of habeas corpus, these persons are subject to indefinite detention, with no meaningful opportunity to petition for release or to protest their treatment or conditions of confinement, no matter how inhumane these conditions or treatment may be.

The right of habeas corpus, which permits a prisoner a fair hearing before a neutral judge, is the most fundamental check on executive power in our Constitution. The Supreme Court has asserted that habeas "is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." Thomas Jefferson called habeas corpus one of the "essential principles of our government," and extolled habeas for "secur[ing] every man here, alien or citizen, against everything which is not law, whatever shape it may assume." Habeas corpus gives meaning to our due process principles by demanding that the government justify to a court why a person should be deprived of his or her liberty.

At present, very few of the nearly 400 Guantanamo detainees have been charged and none has yet been brought to trial, while many have been imprisoned for over five years. Many of these individuals were turned over to U.S. forces far from any battlefield in exchange for financial bounties, and many may be innocent. The government plans to hold military trials for only about 80 of the detainees. At present, the rest have no prospects for release and will remain confined indefinitely at the discretion of the government.

The impact of Section 7 extends far beyond the walls of Guantanamo. It includes individuals detained by U.S. forces anywhere in the world, including within the borders of the United States.

The elimination of habeas corpus for detainees is fundamentally un-American and contradicts the basic values of fairness and respect for the rule of law to which all Americans

subscribe. It diminishes our credibility, standing, and respect in the world and undermines our quest for staunch allies among the world community in the fight against international terrorism.

In the face of external threats, adhering to our values does not make us less secure, but rather strengthens us as a nation. We now have an historic opportunity to change course. We respectfully urge you to expedite passage of legislation amending the MCA to fully restore the habeas corpus jurisdiction of federal courts over pending military detainee cases. It is time once again to be an example to the world of a free, just, and democratic society.

Respectfully,

AIDS Legal Referral Panel
Alliance for Justice
American-Arab Anti-Discrimination Committee
Americans for Democratic Action
American Humanist Association
American Muslim Council
American Immigration Lawyers Association
Asian American Justice Center
Asian American Legal Defense and Education Fund
Baptist Peace Fellowship of North America
Bill of Rights Defense Committee
California Women's Agenda
Center for Constitutional Rights
Center for Law and Social Policy
Center for Victims of Torture
Central American Resource Center
Citizen Outreach Project
Citizens Committee for the Right to Keep and Bear Arms
Coalition for Economic Equity
Coalition for Civil Rights and Democratic Liberties
Committee for Judicial Independence
Council on American-Islamic Relations
Defending Dissent Foundation
Education Law Center
Electronic Frontier Foundation
Equal Justice Society
Equality Mississippi
Fairfax County Privacy Council
Fair Trial Initiative
Friends Committee for National Legislation
Government Accountability Project
Guatemala Human Rights Commission
International Justice Network
Justice Policy Institute
Lawyers' Committee for Civil Rights of the Bay Area
Leadership Conference on Civil Rights
Legal Momentum
Liberty Coalition

Maryknoll Office for Global Concerns
Mexican American Legal Defense and Education Fund
National Association for the Advancement of Colored People
National Association of Criminal Defense Lawyers
National Center for Lesbian Rights
National Law Center on Homelessness & Poverty
National Lawyers Guild
National Legal Aid & Defender Association
National Religious Campaign Against Torture
NETWORK: A Catholic Social Justice Lobby
Northern Virginians for Peace and Justice
People for the American Way
Physicians for Human Rights
Presbyterian Church, (USA)
Privacy Times
Progressive Jewish Alliance
Public Advocates
Public Citizen
Public Justice Center
Rabbis for Human Rights – North American
Rutherford Institute
Sikh American Legal Defense and Education Fund
Society of American Law Teachers
Sugar Law Center for Economic and Social Justice
The Episcopal Church
The Shalom Center
Unitarian Universalist Service Committee
United Methodist Church
U.S. Bill of Rights Foundation
Vermonters for a Real 9/11 Investigation
Wisconsin Council of Churches
Women's International League for Peace & Freedom - DC Branch
Working Assets
World Organization for Human Rights USA