

Waterboarding Our Sacred Right

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President Bush on Saturday vetoed a bill that would have explicitly prohibited the CIA from "harsh interrogation" methods like waterboarding, which makes bound prisoners feel they are drowning. CIA Director, General Michael Hayden, publicly conceded for the first time in February 2008 that the agency began using waterboarding in 2002 on Al-Qaeda suspects with legal approval from the U.S. Department of Justice. Also last month, US Supreme Court Justice Antonin Scalia, in a BBC radio interview, said it is "extraordinary" to assume that the ban on cruel and unusual punishment in the Bill of Rights -- the Constitution's Eighth Amendment -- also applied to "so-called" torture.

But the history behind the Bill of Rights shows that rejecting cruel torments of the body in whatever form is the most natural assumption to be made.

The political and social movement for recognition of human rights began in earnest in the second half of the 18th century, particularly with the Jean Calas Affair in France (1760s): he was broken on the wheel and waterboarded. The Italian politician Cesare Marquis de Beccaria, commenting on the case, proposed making such "torments" of an individual human being a measure of the "contempt of all mankind." In *The Invention of Human Rights*, Lynn Hunt chronicles how the right to protect the body from torment became the first human right accorded to individuals.

Through the emotional reaction to their violation, human rights became self-evident. This helped to define the concepts of 'individual' and 'humanity' for Enlightenment thinkers, including Voltaire, Adam Smith and Thomas Jefferson. These concepts became cornerstones of our moral culture, first inscribed in the Declaration of Independence, then in the US Bill of Rights and the French Declaration of the Rights of Man, and more recently in the United Nations Universal Declaration of Human Rights.

Monotheism created the concept of humanity. Before it, people in one culture did not consider those in other cultures as part of a single human kind. However belonging to humanity guaranteed equal rights before God only in Paradise, not on earth. For the religious orders of the day, individual bodies could be butchered, burned at the stake, disemboweled, drawn and quartered, and mutilated and tortured in public spectacles. England only banned burning at the stake in 1790, a year after France abolished all forms of judicial torture. These spectacles were sacrificial displays of individual suffering that were meant to repair the body politic that had been sinned against. The individual sinner would not be reformed or rehabilitated but given over to the crowd as an offering for the greater good. In countries that still publicly administer beheadings, stoning to death, amputation of limbs, flogging and other insults to the body and person, these practices do not generate moral outrage but represent redemption. Hidden torture in detention centers even lacks this redemptive quality.

Ideas of "self-evident," "natural" and "human" rights are anything but inherently self-evident or natural. In the history of our species, cannibalism, infanticide, slavery, racism, and subordination of women were usually more "natural" and "self-evident," while "human" was obscure. Institutionalized cannibalism and infanticide in remote regions ended only in the last half century. Slavery was abolished in Europe and America in the 19th century, lingering in lynchings through America's Jim Crow South into the 1960s. It was only banned in Saudi Arabia and Muscat in 1970, and still is practiced along the fringes of the Sahara. Racism and subordination of women remain, of course, very much a part of the modern world, although in many places they have become less noxious than in the Stone Age.

In the second half of the 19th century, reactionary tribal nationalisms arose that rejected many of the tentative advances in human rights. Two world wars blunted these nationalist paroxysms, leaving a standoff between two conceptions of humanity: one is based on individuals' integrity and liberty; the other continues to sacrifice the individual for the common good (as interpreted by an authoritarian leader). In *Humanity*, a haunting book on the atrocities of the 20th century, Jonathan Glover describes how Stalinism and Maoism dismissed human rights as sniveling rotten liberalism: Sympathy was discredited: mercy to the enemy was cruelty to the people. The means (sacrifice of individuals) justified the end (the common good).

The Cold War posed an existential threat to our society and to humanity: each side had tens of thousands of nuclear weapons, capable of annihilating major segments of one another's population. Nothing remotely resembles this threat today. The wildest dreams of today's terrorists go no further than one or two gun-type uranium bombs of one to ten megatons. I have interviewed terrorists, and those who would be, from remote jungle islands of Indonesia to the desert shores of Morocco, in Pakistan and the Middle East. None have the means or competence to acquire such a weapon, although some future terrorist group different from any in existence today could. The worst-case scenario entails many thousands dead, deaths, not millions or billions. However horrid this scenario, it does not justify the hysterical response of a cowered government whose security measures against individuals exceed those of the Cold War.

What makes human rights increasingly self-evident is the changing cultural conditions that cause us to empathize with individuals who are at liberty to choose, think and prosper in their own right, independent of any group or creed they may belong to. It is a measure of our civilization's progress that makes us sensitive to human rights violations, even in places that we can barely place on the map. Our shared concept of humanity leads us to empathize with all decent individuals, respecting their integrity as autonomous agents, as long as those actions do not impinge on our right to do the same.

As part of this shared faith, we demand due process even for those who harm the human rights of others. Yet, further progress is not guaranteed. In times of national stress, without firm moral leadership, we risk succumbing to the residual appeal of caveman revenge or the summary justice of the Ancient Middle East (where an 'eye for an eye' threatens to make the whole world blind). It takes conscious, sometimes brave acts to resist the primal allure of expressing collective anger by violating the sanctity of other individuals' bodies -- or of becoming impassive as others violate bodies that we should see as the homes of free-willed and free-thinking souls.

America is currently caught in a battle between the competing rhetorics of homeland tribalism and of humanity grounded in our shared monotheistic faith. Given our singular military and cultural power in today's world, no less than the future of 250 years of human rights development rests on how this internal American battle is resolved. Americans sense that this is a fateful election for our republic; they may not realize how important it is for the world as a whole. We are playing our own part in a continuing struggle that first led to a Declaration of Independence and then empowered those who fought for human rights around the world.

The world is beginning to view our country not as a hope and home for the free but through the lens that shot the infamous photos of American soldiers brutalizing and humiliating Iraqi prisoners at Abu Ghraib. As one top U.S. General in the Multi National Force in Iraq recently told me: We have turned around 180 degrees to show respect for any of the detainees in our care: respect for the culture, for the religion and for the history of the place where our compounds are. But what those few did [at Abu Ghraib] will probably be the images best remembered of this war for a hundred years from now. Reputation, like life itself, is a complex affair that is difficult to sustain but simply to destroy. Mr. Bush has further reduced the moral reputation of the presidency and the country by allowing waterboarding and other harsh interrogation methods. These violate the basic principles upon which the American Republic was founded regarding the sanctity of the individual -- principles that have served as the template for all subsequent elaborations of human rights around the globe.

Shortly before the end of the Civil War, a private in the 1st New York artillery wrote in a letter home that the sacrifice of his friends who "died fighting against cruelty and oppression" had been worth the terrible price of what would be America's bloodiest war. A captain in 47th Ohio wrote to his ten-year old son that his absence from home to fight the battles of our country would be meaningless unless "the children growing up will be worthy of the rights that I trust will be left for them." Jefferson and Lincoln believed that the rights for which our nation fought were the rights of humanity -- that the "sacred purpose" for which our nation came into being was to secure those rights for all, even for those who are against us. We should ask no less of our political leaders and appointees.