IN IRAQ, according to President Bush, the United States is fighting for democracy. His press conference last week added new emphasis to this as the currently prevailing rationale: The United States has positioned a massive army 6,200 miles away because the world will be far better if the benefits of democracy are felt in the Middle East.

Yet this week Bush sent his lawyers just a few blocks to argue that some of the most fundamental rights of democracy should be denied detainees held by the United States at the Guantanamo Bay Naval Base in Cuba.

Several Supreme Court justices seemed troubled, as they should have been, by the very idea that some 600 men have been held for two years without charges being filed and with no access to lawyers. Most of the detainees may be hard-bitten enemies of the United States who fought with the Taliban in Afghanistan. But not all are. A few, including British citizens lucky enough to have Prime Minister Tony Blair intercede, have been released. But others sit in their cells endlessly, with no hope even of asserting their innocence.

This policy is an outrage to all that Americans hold dear. And the hawkish arguments advanced in support of it carry no more weight than a hummingbird feather.

"The United States is at war," thundered Bush's solicitor general,
Theodore Olson. Indeed, the war on terror, though undeclared by Congress, has the nation debating a trade-off of some individual rights to increase security. We believe security can and should be strengthened with little sacrifice of rights. But in any event, Olson's war bluster was quickly damped down when Justice John Paul Stevens got him to admit he would make the same arguments about the detainees even if the war were over.

Olson also argued that Guantanamo is not American soil and the detainees are not US citizens. But Guantanamo is controlled by the United States under a perpetual lease, and Cuban law does not apply there. And in most situations in the US criminal justice system, basic constitutional rights apply to citizens and noncitizens alike.

Beyond that, it makes no sense for the Bush administration to argue that basic civil liberties apply only to American citizens at the very time it is trying to export a democratic system containing those liberties to Iraq.

Americans are rightly furious when foreign governments hold US citizens without due process. Yet this nation is not honoring the same standard itself.

Bush has no right to arrogate judicial power simply by doing it offshore. What he is doing at Guantanamo does not make a pretty postcard to send to Iraqis in Baghdad.


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