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Anne-Marie Slaughter

Degrading our soldiers and ourselves; America, be beautiful

O beautiful for pilgrim feet

Whose stern, impassioned stress

A thoroughfare for freedom beat

Across the wilderness!

America! America!

God mend thine every flaw,

Confirm thy soul in self-control,

Thy liberty in law!

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That is the second verse of "America the Beautiful." Perhaps it should become the first. In a week in which the vice president is openly trying to convince a U.S. senator held captive and tortured by the North Vietnamese that CIA officials should be allowed to abuse detainees as they like, it is worth remembering that the rule of law is not just a "value," much less a luxury confined to more peaceful times.

It is both the fundamental safeguard of our liberty and a discipline linked, as the verse says, to our very soul as a nation.

This issue has largely been fought over in legal terms. Within the government, the trouble started with an opinion issued by the Office of Legal Counsel saying that existing federal law prohibiting torture did not apply to the president in wartime, because it unconstitutionally infringed on his powers as commander in chief.

The president himself declared that the Geneva Conventions did not apply to detainees in the war on terror. And now the report of a military investigation by Lieutenant General Mark Schmidt and Brigadier General John Furlow says that the U.S. Army Field Manual allows virtually all the treatment of detainees that so horrified the nation and the world when we saw the actual pictures. Lynndie England's escapade leading a naked prisoner on a leash is specifically authorized.

And far worse has actually happened. Assault, water-boarding, threats to kill family members, even death.

Some of this treatment amounts to torture; some is “simply” cruel, abusive and degrading treatment. Both categories are prohibited by international law, and, as our soldiers have always believed, by U.S. law.

But, say the government lawyers, apparently not. Instead of consulting their training or their consciences, soldiers are to parse the fine print of a Field Manual, or at least its most recent interpretation.

The law is the safeguard of liberty, but only as long as it is not twisted beyond all recognition. After all, tyrants have their lawyers just as democracies do. Our founders looked to law as constraint, not as license; as a check on power, not authorization. The difference is a matter of honor, of values, of identity itself.

Understanding and embracing law as a check on our worst instincts, as individuals and as a nation, has a deeper purpose, a moral purpose.

When we ask our soldiers, many still in their teens, to degrade and abuse their fellow human beings, we are degrading them. We are removing the very moral constraints that they take pride in as patriots and that they have learned to live by as part of what it means not just to be a soldier, but to be a U.S. soldier.

That is what Senator John McCain means when he explains, as he did on the floor of the Senate several weeks ago, that when he was held captive in Hanoi, he and his fellow prisoners of war “knew and took great strength from the belief that we were different from our enemies, that we were better than them, that we, if the roles were reversed, would not disgrace ourselves by committing or countenancing such mistreatment of them.”

He was echoing none other than George Washington, who watched with his officers as British soldiers massacred Americans who had surrendered in New York. Later, when those same officers stood over British captives, the general told them to treat the captives “with humanity, and let them have no reason to complain of our copying the brutal example of the British army in their treatment of our unfortunate brethren.”

“Confirm thy soul in self-control.”

The soul of America as a nation depends not on the letter of the law, but on the deeper self-discipline to accept law and live by it as a statement of who we are and who we aspire to be.

Yet under President George W. Bush, who would describe himself as a deeply moral man, who indeed divides the world into good and evil, law has become a prop for power. Unless we as a nation, led by the Senate and by our retired military officers and young captains and cadets, rise up and insist on the constraints of law, America will no longer be so beautiful.