

After Terri Schiavo's death: new threats against democratic and constitutional rights

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2 April 2005

The thuggery, hypocrisy and mendacity of the political and media establishment in regard to the Terri Schiavo case have not ended with the unfortunate woman's passing away Thursday morning in her husband's arms.

In the wake of Schiavo's death, George W. Bush, who blithely presided over the execution of 152 human beings in Texas when he was governor and has the blood of countless thousands of Iraqis on his hands, pledged to continue to work "to build a culture of life where all Americans are welcomed and valued and protected, especially those who live at the mercy of others."

Bush added, "The essence of civilization is that the strong have a duty to protect the weak." This, from a man whose administration's proposed budget calls for cutting \$60 billion from projected Medicaid spending over the next decade, severely affecting many of the 50 million elderly, children, poor and disabled—the most defenseless segments of the population—who depend on the program.

The fragility of democratic norms in America was sharply underscored by the rantings Thursday of Texas Republican Tom DeLay, the House Majority leader. DeLay threatened judges who refused to order Schiavo's feeding tube reinserted, declaring, "The loss happened because our legal system did not protect the people who need protection most, and that will change. The time will come for the men responsible for this to answer for their behavior, but not today." In the wake of the shooting of one judge in Atlanta and the murder of another's family in Chicago, DeLay's comments could only be construed as a barely concealed incitement to violence.

Pulling a small copy of the US Constitution out of his pocket, DeLay told reporters, "We will look at an arrogant, out of control, unaccountable judiciary that thumbed their nose at the Congress and president when given jurisdiction to hear this case anew and look at the facts." Asked if he would support impeachment proceedings against judges in the Schiavo case, DeLay replied, "There's plenty of time to look into that."

The comments appeared to genuinely alarm Democratic Senator Edward Kennedy of Massachusetts, who rebuked DeLay for his inflammatory comments. Kennedy called the statements "irresponsible and reprehensible." He commented further, "At a time when emotions are running high, Mr. DeLay needs to make clear that he is not advocating violence against anyone. People in this case have already had their lives threatened."

It is surely an extraordinary state of affairs when the second most

senior member of the US Senate—an individual who lost two brothers to political assassination—feels obliged to caution the House majority leader from openly urging violence against members of the judiciary.

DeLay's comments were echoed by the various religious fanatics who have cynically adopted the Schiavo case as their own. James Dobson of Focus on the Family asserted that the judges in the case were "guilty not only of judicial malfeasance—but of the cold-blooded, cold-hearted extermination of an innocent human life." Tony Perkins of the Family Research Council proclaimed, "It is a tragic, unfortunate but avoidable event that should awaken Americans to the problem of the courts. It is no longer theoretical. It is life or death."

Father Frank Pavone, an adviser to Terri Schiavo's parents, declared, "This is not only a death, with all the sadness that brings, but this is a killing." Pavone, national director of Priests for Life, an extremist anti-abortion group, continued to slander Michael Schiavo, claiming that his "heartless cruelty continued until this very last moment." Schiavo's lawyer, George Felos, told the media, "It was very disquieting to hear the priest issue venom and make extremely harsh statements about Mr. Schiavo."

In a statement, Pavone announced the formation of the Catholic Church's first society of priests devoted exclusively to "the Gospel of Life," fighting against euthanasia and abortion. The group will be headquartered in Amarillo, Texas. A top official of Planned Parenthood of Amarillo called the society's arrival "very frightening." Planned Parenthood expressed concerns that the society could attract extremists who might resort to violence.

Democratic leaders in Congress were either silent or confined themselves to mealy-mouthed and evasive comments in the wake of Schiavo's death. Senate Minority Leader Harry Reid of Nevada issued a statement endorsing living wills. "This is a very difficult time involving very personal decisions for those who loved Terri," Reid said in his statement. "My hope is that this tragic event will serve to encourage all Americans to have a living will. In the difficult days ahead, my thoughts and prayers go out to all those who feel the pain of this loss."

House Minority Leader Rep. Nancy Pelosi of San Francisco, just returned from a trip to the Middle East, first genuflected to the religious right by informing the press that she had prayed for Schiavo and her divided family at the Church of the Holy Sepulcher in Jerusalem. Pelosi then expressed her personal dislike for the "exploitation" of Schiavo by DeLay and the Republicans.

“The American people will draw their own conclusions,” she added.

No comments were forthcoming from Sen. John Kerry, former Vice President Al Gore or Sen. Hilary Clinton. Democratic Sen. Tom Harkin of Iowa, who supported the flagrantly unconstitutional bill in Congress that would have allowed Schiavo’s parents to file suit in federal court to block the withdrawal of life support, remarked, “Now is the time for healing and a time to celebrate Terri’s life and our belief that she is now at peace with our creator.”

A variety of state legislatures are already looking at ways to prevent a repetition of the courts’ actions in the Schiavo case. In Alabama, legislators have introduced the Alabama Starvation and Dehydration Act, a provocatively named bill that would forbid the removal of a feeding tube without express written instructions of the patient. A similar measure has been introduced in Louisiana. A proposal that passed the Kansas House of Representatives by a large margin would require a guardian to get court approval before ending life support. The bill, supported by anti-abortion forces, is expected to die in the state senate.

A Michigan Democrat, Rep. Joel Sheltrown from West Branch, is working on legislation that would prohibit a spouse who is having an extramarital affair from denying food, fluids or medical treatment to a wife or husband who cannot make such a decision. Michael Schiavo, whose wife was in a permanent vegetative state for 15 years, has children with his long-time girl friend.

According to CBS News, there are 100 pieces of legislation pending in 32 states inspired by the Schiavo case, most of them of a reactionary character.

A new opinion poll conducted by *Time* magazine indicates that a large majority (59 percent) of Americans supported the decision to remove Terri Schiavo’s feeding tube, including majorities of Republicans (53 percent) and evangelical Christians (also 53 percent). Fewer than one in four “strongly disagreed” with the decision. Asked, “If you were in Schiavo’s place, would you want your guardian to remove your feeding tube?,” 69 percent of those polled replied yes. Seventy-five percent considered congressional intervention wrong, while 70 percent opposed Bush’s actions. Two thirds of those surveyed thought Congress’s and Bush’s interventions had more to do with politics than with their “values and principles.”

Despite the unpopularity of the interventions, there will be attempts to use the Schiavo precedent to intensify the assault on democratic rights and constitutional norms, including ever more open attacks on the judiciary. Guaranteed also are greater and greater invasions of privacy, based on the religious dogma of the fundamentalist right. The assault has profound social roots in the crisis of American capitalism, but the prostration of the Democratic Party and the cravenness of the mass media have permitted the religious right to achieve influence far beyond its limited base of support in the population.

The media coverage of the Schiavo case has been designed to bury the real social, scientific and moral issues. If the American media were in any way serious about the implications of this episode, for example, it would have given the widest coverage to the comments Wednesday of 11th Circuit Court of Appeals judge

Stanley F. Birch Jr., denying Schiavo’s parents a rehearing.

Birch is considered one of the most conservative jurists on the federal bench, falling “pretty squarely in the Scalia/Thomas camp,” notes constitutional expert David Garrow, referring to right-wing Supreme Court justices Antonin Scalia and Clarence Thomas. Birch was appointed by the first president George Bush in 1990. He has authored opinions upholding the right of Alabama to ban the sale of sex toys and Florida’s law prohibiting adoptions by gay couples.

In his decision, Birch went out of his way to condemn Bush and congressional Republicans for acting “in a manner demonstrably at odds with our Founding Fathers’ blueprint for the governance of a free people—our Constitution.”

Birch said Congress had no right to force federal courts to reconsider the Schiavo issue, asserting that the law pushed through Congress “robs federal courts of judicial doctrines long-established for the conduct of prudential decision making.” He argued, “It is axiomatic that the Framers [of the Constitution] established a constitutional design based on the separation of powers.”

He cautioned, “Accordingly, we risk imperiling our constitutional design if we do not inquire as to whether” the Schiavo law “infringes on the independence of the judiciary” guaranteed by Article III of the Constitution. Birch placed in italics the following warning, “*If sacrifices to the independence of the judiciary are permitted today, precedent is established for the constitutional transgressions of tomorrow.*”

This remarkable comment, a wholesale denunciation of Bush and the Republican-controlled Congress, has received virtually no coverage by the television networks in particular, while hours of air-time have been given over to the ravings of Father Pavone, anti-abortion fanatic Randall Terry, the Rev. Patrick J. Mahoney, director of the “Christian Defense Coalition,” and other zealots and reactionaries.



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