

Free critical thinking on civil liberties, habeas corpus, and the war on terror

[Law](#), [Criminal Justice](#)



In the history, man's self interested has been dominated by the idea of self interest with the aim of concluding a dominion over those with no or little power in the absence of rule of law to protect them. The monster of Habeas Corpus has been around in circulation for many years despite the fact that it sets back to many years unidentified. The phenomena Corpus has been around for every war encountered as been either considered a good or a bad thing based on the outcome of the war. Two presidents in the past suspended the concept behind the ideology thereby making the concept of the Habeas Corpus an old but interesting one. As the war on terror remains an enigma in the United States and an unpredictable challenge in various states, the terrorists are apprehended and deprived their rightful hearing processes. The essay concentrates on the evolution of habeas corpus as well as the suspension of the same by the United States treaties, the relevance during the war of terror as well as the integration of the U. S Supreme Court's integration. Despite the fact that the laws are meant to protect everyone, it is to avoid unlawful apprehension as well as the apprehension and assuredly of the habeas corpus works as expected by the constitution (Stone, 2009).

The rights and privileges of Habeas corpus often undermines the man's interpretation that allows those accused to be represented in either state or federal courts before any judge or a jury panel. The claim state that the accused are often innocent unless proven guilty with the accusers having the rights to be represented, allowed to appear in person as well as their charges be brought fourth. Despite these acts, the laws are always enacted to protect everyone and avoid unlawful acts in the society. The Habeas corpus

thus evolved from the Magna Carta often known as the Bill of Rights in England in the years. The English King therefore placed his signature on the Magna Carta comprising human rights and civil rights liberties. Therefore the king required signatures from the legislative body in order to impose taxes on the citizens. Habeas corpus therefore serves as a writ and scrape parchment that instructs the well thought-out jailer to enable them bring forth the named prisoners to the court of face according to the written charges. His information entailed in the document therefore included established trial and due process of law that must always occur in the previous properties that had been confiscated from the free men residents in England (Cary, 2006).

Civil liberties and various wars on terror were initiated soon after the United States invaded the Afghanistan back almost a decade ago. This was a situation where the Bush management initiated an interrogation with the aim of capturing prisoners. The captured elements were then imprisoned in the United States. This saw the naval base at Guantanamo Bay to lease the land from the Cuban government. This has seen over 700 men being detained ever since 2002 at the Gitmo. However, these people have been detained; some have been released following the claim that they were free of charges thereby releasing them to their governments. For instance, Congress had prohibited the expenditure funds often transferred to Gitmo prisoners' detention facilities situated in the continental United States, back in 2001 ((Bator, 2003). The aim of this move was mainly to paralyze the activities in this detention facility to have the criminals tried in the civilian courts. Likewise, beginning early this year, over 150 prisoners remained in the

Gitmo detention camp (Sadimo & Saminiski, 2004) as a result of the assumption that was made by the administrators during the Bush regime that the jurisdiction would be considered outside the United States bench. The aim of this was to prevent any jurisdiction oversight especially how detainees were handled that often characterized them as the combated enemies. The Habeas Corpus provision of the constitution therefore shows a possible legal challenge on the detention of the formal charges or otherwise an equivalence of the judicial proceedings. As a speculation in the section 9 of the Article on the constitution clearly highlighted the “ Privilege of the Writ of Habeas Corpus that shall and cannot be suspended unless it’s a situation of rebellion or the invasion of public safety that orders such moves” (Sadimo & Saminiski, 2004). In this provision therefore, any person detained by the government are often entitled to judicial hearing in order to establish any trial hearing on the grounds of their confinement.

Habeas Corpus is often referred to as the great writ of liberty due the fact that it is recourse to unfair judge who has the ability to review the possibility of being illegally held by the executives especially the military or police hostage. Countries that never acknowledge Habeas Corpus, often throw people into jails without necessarily having a hearing. With several judicial a hearing coming out controversial at Gitmo, there remains one technical question that has been consulted over and over with no immediate solution arrived at. The question has always lingered on people’s mind on as to what extent has the war on terror fulfills the president’s indefinite detention of the enemies combatant without the minimal judicial hearing as protected by the habeas Corpus. Another question that remains unanswered is as to what

extent the congress must clearly authorize the president to conduct extra judicial detentions in the aim of establishing their legality (Freedman, 2001). These issues have been discussed over and over again without reaching the solution as to what nature the war seems to be and the important discussion concerns seems to be continued in different fields even in the years to come.

Therefore the history of Habeas corpus still remains an old law that has been used since the early ages. In its own, it appears as if it's still a merely dominated Anglo Saxon law of a common origin that is barely known. Even though Habeas corpus origin is known to be a European principle in the early centuries, the ideology has however been implemented ever since in the various writs. It has therefore evolved but has always remained the same. Habeas corpus is on the belief that whoever has been arrested or has been kept in custody must be brought to the court for a hearing session. This theory had been used during and in the beginning of Revolutionary War witnessed in the United States (Stone 2009). The system of justice was as a result of the establishment by the British that was originally regarded as part of the fundamental law that each citizen had to abide by.

The suspension of Habeas corpus is only eminent when in the situation of rebellion or invasion of the safety of the public. This has been done by the former presidents that had limited conditions of suspending the habeas corpus in the conditions that were of executive cognizance and thus there was never a necessity by the congress to reference the situation in order to offer a bill that would recognize the abandonment of the situation. This situation required the reference of the legislature and the inclusion of the

legislative article and an amendment of various sections that impacted the verdicts of the judiciary (Bator, 2003). In order to allow the president to suspend the habeas corpus, a committee had to be involved that was not mainly tasked by changing the meaning of the habeas clause but placing provisions on the articles in the judiciary that would allow the repealing of such acts as suspension orders by the president.

The provision by the judiciary allowed the mover of other conventions in the article to reprimand the judges to control their powers over those of the writ. Thus, in essence, the judiciary article included was relevant in giving the congress the power as well as the president to declare certain punishments for treason. This also included the powers to suspend the general theories that relate to the public safety especially at a time of eminent rebellion or any form of attack or invasion. Based on the national security cautions as a result of the attacks witnessed in September 11, the “ Great Writ” is legally protected in a persistent protection order. In order to allow for the suspension of any habeas corpus writ, a statute must be passed, a situation that has not been accomplished yet. Likewise, the writ has been availed to the armed prisoners as well as the civilians that have a jurisdictional barrier with their continued incarceration or internment (Cary, 2006). This therefore brings the great writ on the vanguard of the long introduced American debates involving balancing of the national security interests and other individual freedoms.

In conclusion therefore, habeas corpus is mainly a demand by court ordering a government agency to produce a prisoner by producing a proper reason demonstrating the adequate grounds unto which the prisoner is held. The

Great Writ thus ensures a common law of liberty is enhanced as in its fundamental form by offering the prisoners the right not to be imprisoned arbitrarily. Just as the First Amendment honors the rights and freedom of speech, assembly and religion habeas corpus sees and respects the constitutional mandate and therefore mentions the first article of the constitution and its provisions. Habeas writ therefore provides that the privileges of the article provision not be suspended unless by the situation of rebellion or any form of attack that will require the assurance of the public safety. Hence habeas corpus is useful to the imprisoned individuals as it requires and gives the rights of these individuals to be protected by the government and justify their detention or their imprisonment. This thus ensures the right not to be outlawed before any form of trial as well as giving the individuals the freedom from the laws that have been passed after the fact (Stone, 2009). It therefore protects individuals collectively from the wrath of the powers thereby distinguishing the laws enacted by the government and the protection of the individuals.

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