

Authorhabeascorp

Jonathan Hafetz

Habeas Corpus Paul D. Halliday,2012-04-02 We call habeas corpus the Great Writ of Liberty. But it was actually a writ of power. In a work based on an unprecedented study of thousands of cases across more than five hundred years, Paul Halliday provides a sweeping revisionist account of the world's most revered legal device. In the decades around 1600, English judges used ideas about royal power to empower themselves to protect the king's subjects. The key was not the prisoner's right to liberty—these are modern idioms—but the possible wrongs committed by a jailer or anyone who ordered a prisoner detained. This focus on wrongs gave the writ the force necessary to protect ideas about rights as they developed outside of law. This judicial power carried the writ across the world, from Quebec to Bengal. Paradoxically, the representative impulse, most often expressed through legislative action, did more to undermine the writ than anything else. And the need to control imperial subjects would increasingly constrain judges. The imperial experience is thus crucial for making sense of the broader sweep of the writ's history and of English law. Halliday's work informed the 2008 U.S. Supreme Court ruling in *Boumediene v. Bush* on prisoners in the Guantanamo detention camps. His eagerly anticipated book is certain to be acclaimed the definitive history of habeas corpus.

Federal Habeas Corpus Practice and Procedure James S. Liebman,Randy Hertz,1998 Previous edition, 2nd, published in 1994.

Habeas Corpus in Wartime Amanda L. Tyler,2017 Habeas Corpus in Wartime unearths and presents a comprehensive account of the legal and political history of habeas corpus in wartime in the Anglo-American legal tradition. The book begins by tracing the origins of the habeas privilege in English law, giving special attention to the English Habeas Corpus Act of 1679, which limited the scope of executive detention and used the machinery of the English courts to enforce its terms. It also explores the circumstances that led Parliament to invent the concept of suspension as a tool for setting aside the protections of the Habeas Corpus Act in wartime. Turning to the United States, the book highlights how the English suspension framework greatly influenced the development of early American habeas law before and after the American Revolution and during the Founding period, when the United States Constitution enshrined a habeas privilege in its Suspension Clause. The book then chronicles the story of the habeas privilege and suspension over the course of American history, giving special attention to the Civil War period. The final chapters explore how the challenges posed by modern warfare during the twentieth and twenty-first centuries have placed great strain on the previously well-settled understanding of the role of the habeas privilege and suspension in American constitutional law, particularly during World War II when the United States government detained tens of thousands of Japanese American citizens and later during the War on Terror. Throughout, the book draws upon a wealth of original and heretofore untapped historical resources to shed light on the purpose and role of the Suspension Clause in the United States Constitution, revealing all along that many of the questions that arise today regarding the scope of executive power to arrest and detain in wartime are not new ones.

Habeas Corpus Amanda L. Tyler,2021 The storied writ of habeas corpus—literally, to hold the body—has enjoyed celebrated status in the common law tradition for centuries. Writing in the eighteenth century, the widely influential English jurist and commentator William Blackstone once labeled the writ of habeas corpus a bulwark of our liberties. Soon thereafter, a member of Parliament glorified the writ as [t]he great palladium of the liberties of the subject. Meanwhile, across the Atlantic, in the lead up to the American Revolution, the Continental Congress declared that the habeas privilege and the right to trial by jury were among the most important rights in a free society, without which a people cannot be free and happy. A few years later, while promoting the ratification of the United States Constitution in *The Federalist*, Alexander Hamilton celebrated the privilege as one of the greatest securities to liberty and republicanism known. Thus, as another participant in the ratification debates wrote, the writ of habeas corpus has long been viewed as essential to freedom.--

Winning Strategies for Habeas Corpus and Post Conviction Relief Fast Law Publishing Associates,2009-01-01 {Subject:}

Making Habeas Work Eric M. Freedman,2018-06-12 A reconsideration of the writ of habeas corpus casts new light on a range of current issues Habeas corpus, the storied Great Writ of Liberty, is a judicial order that requires government officials to produce a prisoner in court, persuade an independent judge of the correctness of their claimed factual and legal justifications for the individual's imprisonment, or else release the captive. Frequently the officials resist being called to account. Much of the history of the rule of law, including the history being made today, has emerged from the resulting clashes. This book, heavily based on primary sources from the colonial and early national periods and significant original research in the New Hampshire State Archives, enriches our understanding of the past and draws lessons for the present. Using dozens of previously unknown examples, Professor Freedman shows how the writ of habeas corpus has been just one part of an intricate machinery for securing freedom under law, and explores the lessons this history holds for some of today's most pressing problems including terrorism, the Guantanamo Bay detentions, immigration, Brexit, and domestic violence. Exploring landmark cases of the past - like that of John Peter Zenger - from new angles and expanding the definition of habeas corpus from a formal one to a functional one, *Making Habeas Work* brings to light the stories of many people previously overlooked (like the free black woman Zipporah, defendant in "the case of the headless baby") because their cases did not bear the label "habeas corpus." The resulting insights lead to forward-thinking recommendations for strengthening the rule of law to insure that it endures into the future.

Habeas Corpus Jill McDonough,2008 Sacco and Vanzetti, the Rosenbergs, and Aileen Wuornos. A witch, a pirate, a slave who poisoned her master. A serial killer, a Quaker, a case of mistaken identity. The earliest to be electrocuted, gassed, and lethally injected; the last to be publicly hanged. In her first book, *Habeas Corpus*, acclaimed poet Jill McDonough gives us fifty sonnets, each about a legal execution in American history. From four hundred years of documentation she conjures – and honors – a chorus of the dead. The sonnets, headed meticulously by name, date, and place, are poignant with the factual, with words and actions reported by eyewitnesses and spoken by the condemned – so limpidly framed that at moments one forgets the skill that tautens and crystallizes all this into authentic poetry: The warehouse was dingy, cluttered with lumber:thirteen steps, noose, black mask. No hymn, no psalm.He spat out his gum in the chaplain's outstretched palm.Habeas Corpus: you have the body. With a rare control of indignation by sorrow, of subjectivity by the subject's own truth, McDonough's unsparing sonnets reveal the enormity that is the death penalty in America: "a ladder, a hanging tree" for Mary Dyer, "an odor he'd/described in print as peach blossoms, sickening-sweet" for Caryl Chessman, "a hood, their/target, then bang, bang, bang, three noises, quick" for Gary Gilmore, "Two needles in his arm,/blood splatters on the sheet" for Charles Brooks. Taking the words of fifty out of the nearly 20,000 men and women executed since 1608, she reflects them back to us in works of self-effacing artistry. Resurrected from their obscurity these individuals speak our secret history.

A Treatise on the Writ of Habeas Corpus William Smithers Church,1893

Habeas Corpus in America Justin J. Wert,2023-09-15 For most Americans, habeas corpus is the cornerstone of our legal system: the principal constitutional check on arbitrary government power, allowing an arrested person to challenge the legality of his detention. In a study that could not be more timely, Justin Wert reexamines this essential individual right and shows that habeas corpus is not necessarily the check that we've assumed. Habeas corpus, it emerges, is as much a tool of politics as it is of law. In this first study of habeas corpus in an American political context, Wert shifts our collective emphasis from the judicial to the political—toward the changes in the writ influenced by Congress, the president, political parties, state governments, legal academics, and

even interest groups. By doing so, he reveals how political regimes have used habeas corpus both to undo the legacies of their predecessors and to establish and enforce their own vision of constitutional governance. Tracing the history of the writ from the Founding to *Hamdi v. Rumsfeld* and *Boumediene v. Bush*, Wert illuminates crucial developmental moments in its evolution. He demonstrates that during the antebellum period, Reconstruction, Gilded Age, Great Society, and the ongoing war on terrorism, habeas corpus has waxed and waned in harmony with the interests of majoritarian politics. Along the way, Wert identifies and explains the political context of fine points of law that many political scientists and historians may not be aware of—such as the exhaustion rule requiring that a federal habeas participant must first exhaust all possible claims for relief in state court, a maneuver by which the post-Reconstruction Court abandoned supervision of race relations in the South. Especially in light of the new scrutiny of habeas corpus prompted by the Guantánamo detainees, Wert's book is essential for broadening our understanding of how law and politics continue to intersect after 9/11. Brimming with fresh insights into constitutional development and regime theory, it shows that the Great Writ of Liberty may not be so great as we have supposed—because while it has the potential to enforce conceptions of rights that are consistent with the best ideals of American politics, it also has the potential to enforce its worst aspects as well.

The Power of Habeas Corpus in America Anthony Gregory, 2013-04-15 This book tells the story of habeas corpus from medieval England to modern America, crediting the rocky history to the writ's very nature as a government power. The book weighs in on habeas's historical controversies - addressing the writ's role in the power struggle between the federal government and the states, and the proper scope of federal habeas for state prisoners and for wartime detainees from the Civil War and World War II to the War on Terror.

Habeas Corpus After 9/11 Jonathan Hafetz, 2012-08-20 Examines the rise of an American-run global detention system, including Guantánamo Bay, Bagram Air Base in Afghanistan, and secret CIA jails, and discusses efforts that are being made to challenge this new prison system through habeas corpus.

Habeas Corpus Eric M. Freedman, 2003-05-01 Habeas Corpus is the process by which state prisoners—particularly those on death row—appeal to federal courts to have their convictions overturned. Its proper role in our criminal justice system has always been hotly contested, especially in the wake of 1996 legislation curtailing the ability of prisoners to appeal their sentences. In this timely volume, Eric M. Freedman reexamines four of the Supreme Court's most important habeas corpus rulings: one by Chief Justice John Marshall in 1807 concerning Aaron Burr's conspiracy, two arising from the traumatic national events of the 1915 Leo Frank case and the 1923 cases growing out of murderous race riots in Elaine County, Arkansas, and one case from 1953 that dramatized some of the ugliest features of the Southern justice of the period. In each instance, Freeman uncovers new original sources and tells the stories of the cases through such documents as the Justices' draft opinions and the memos of law clerk William H. Rehnquist. In bracing and accessible language, Freedman then presents an interpretation that rewrites the conventional view. Building on these results, he challenges legalistic limits on habeas corpus and demonstrates how a vigorous writ is central to implementing the fundamental conceptions of individual liberty and constrained government power that underlie the Constitution.

Habeas for the Twenty-First Century Nancy J. King, Joseph L. Hoffmann, 2011-03-25 For centuries, the writ of habeas corpus has served as an important safeguard against miscarriages of justice, and today it remains at the center of some of the most contentious issues of our time—among them terrorism, immigration, crime, and the death penalty. Yet, in recent decades, habeas has been seriously abused. In this book, Nancy J. King and Joseph L. Hoffmann argue that habeas should be exercised with greater prudence. Through historical, empirical, and legal analysis, as well as illustrative case studies, the authors examine the current use of the writ in the United States and offer sound reform proposals to help ensure its ongoing vitality in today's justice system. Comprehensive and thoroughly grounded in a modern understanding of habeas corpus, this informative book will be an insightful read for legal scholars and anyone interested in the importance of habeas corpus for American government.

The Body of John Merryman Brian McGinty, 2011-10-05 When Chief Justice Taney declared Lincoln's suspension of habeas corpus unconstitutional and demanded the release of John Merryman, Lincoln defied the order, offering a forceful counter-argument for the constitutionality of his actions. The result was one of the most significant cases in American legal history—a case that resonates in our own time.

Habeas Corpus Proceedings and Issues of Actual Innocence United States. Congress, United States Senate, Committee on the Judiciary, 2018-01-17 Habeas corpus proceedings and issues of actual innocence : hearing before the Committee on the Judiciary, United States Senate, One Hundred Ninth Congress, first session, July 13, 2005.

Habeas Corpus in International Law Brian R. Farrell, 2017 6 The Importance of Effective International Habeas Corpus Guarantees

The Law of Habeas Corpus Robert J. Sharpe, 1989 Sharpe here examines the notion of habeas corpus, the principal means under the law for the protection of personal liberty. Extensively revised and updated, this edition focuses on English law as it explores the nature of judicial review exercised on habeas corpus and surveys the past, present, and potential uses of the writ.

The Law of Habeas Corpus Judith Farbey, R.J. Sharpe, Simon Atrill, 2011-02-24 Habeas corpus is the principal means under the common law for the protection of personal liberty. By this ancient writ, the court assumes control over the body of a prisoner so it can discharge him or her to freedom if no proper legal cause can be shown for detention. Habeas corpus secures release from any form of custody, whether decreed by the highest powers of the state or the lowest gangland slave-trader. Its reach is as diverse as the forms of confinement. For just two examples beyond the prison wall, a patient wrongly detained for compulsory medical treatment can invoke its protection and it can even be deployed to determine the proper parental custody of a child. This volume looks first at the historical development of the writ, tracing its growth in significance until its emergence as an item of central constitutional importance. Having established the traditional place of habeas corpus, the volume goes on to examine the limits of the remedy today. It describes the modern workings of the application for habeas corpus and assesses the scope, function, and role of the procedure. It explores the relationship between habeas corpus and fundamental rights. The volume critically surveys the nature of judicial review on habeas corpus and investigates past, present, and potential future uses of the writ. It aims to provide a comprehensive statement of current English law, with added discussion of the position in other Commonwealth countries. The volume concludes with a guide to procedure and sample forms.

All the Laws but One William H. Rehnquist, 2007-12-18 In *All the Laws but One*, William H. Rehnquist, Chief Justice of the United States, provides an insightful and fascinating account of the history of civil liberties during wartime and illuminates the cases where presidents have suspended the law in the name of national security. Abraham Lincoln, champion of freedom and the rights of man, suspended the writ of habeas corpus early in the Civil War—later in the war he also imposed limits upon freedom of speech and the press and demanded that political criminals be tried in military courts. During World War II, the government forced 100,000 U.S. residents of Japanese descent, including many citizens, into detainment camps. Through these and other incidents Chief Justice Rehnquist brilliantly probes the issues at stake in the balance between the national interest and personal freedoms. With *All the Laws but One* he significantly enlarges our understanding of how the Supreme Court has interpreted the Constitution during past periods of national crisis—and draws guidelines for how it should do so in the future.

Federal Habeas Corpus Andrea D. Lyon, Emily Hughes, Mary Prosser, 2005 Habeas corpus law changed dramatically after Congress passed the Anti-Terrorism and Effective Death Penalty Act

(AEDPA) in 1996. This new book provides a comprehensive view of the latest developments in the field and will continue to be supplemented as Congress passes new legislation and as courts try to make sense of how that legislation affects habeas law. After providing a background on the history of habeas corpus and an overview of common habeas corpus claims, the book examines subject matter jurisdiction, habeas corpus litigation, clemency, stays of execution, and innocence. The book concludes by examining the future of habeas corpus litigation. While this book is primarily intended for law students, it will be useful for attorneys specializing in post-conviction and habeas work. It will also be a valuable addition to the libraries of appellate public defenders across the country.

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