



Habeas Corpus Habeas Corpus

William Smithers Church



Habeas Corpus Habeas Corpus:

Habeas Corpus Amanda L. Tyler, 2020-12-01 For nearly eight hundred years the writ of habeas corpus has limited the executive in the Anglo American legal tradition from imprisoning citizens and subjects with impunity The writ empowers the judiciary to determine whether an arrest has been made with just cause and where appropriate to award prisoners their freedom For this reason the eighteenth century jurist William Blackstone described the writ of habeas corpus as a bulwark of our liberties and the English Habeas Corpus Act of 1679 as a second Magna Carta Amanda L Tyler traces the history of habeas corpus from its origins in English law to its spread throughout the world and its incorporation in the American constitutional framework giving special attention to its application at various flashpoints in recent history including during World War II and the War on Terror

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 Guantamo detention camps His eagerly anticipated book is certain to be acclaimed the definitive history of habeas corpus

A Treatise on the Law of Habeas Corpus and Special Remedies William Francis Bailey, 1913 *Habeas Corpus, Writ of Liberty* Robert Searles Walker, 2006 Being a reprint of The constitutional and legal development of habeas corpus as the writ of liberty together with 2006 revised edition The American reception of the writ of liberty T p

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 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 Guantanamo 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 *Habeas Corpus* Eric M.

Freedman, 2002-02-01 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 Corpus* United States. Congress. House. Committee on the Judiciary, 1955 **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 *A Treatise of the Writ of Habeas Corpus* William Smithers Church, 2013 This comprehensive work discusses all aspects of the writ and its jurisdiction in English common law and United States federal and state courts Includes an examination of issues of bail foreign and interstate extradition the return pardon custody etc and a thorough history of the writ that traces its history to the Roman Edict *Habeas Corpus in Wartime* Amanda L. Tyler, 2017 This book is the most comprehensive account of the role of habeas corpus in wartime ever written It draws on a wealth of untapped resources to shed light on the political and legal understanding of habeas corpus that has unfolded over the course of Anglo American history The book traces the roots of the habeas privilege enshrined in the United States Constitution to England and then carries the story forward to document the profound influence of English law on early American law It then takes the story forward to document the understanding of the privilege and the role of suspension over the course of American history **The Privilege of the Writ of Habeas Corpus Under the Constitution** Horace Binney, 1865 *The Suspending Power and the Writ of Habeas Corpus* James F. Johnston, 1862 *A Treatise on the Writ of Habeas Corpus* William Smithers Church, 1893 **A Treatise on the Right of Personal Liberty** Rollin Carlos Hurd, 1858

A Treatise on the Right of Personal Liberty Rollin Carlos Hurd, 1876 **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

The Privilege of the Writ of Habeas Corpus Under the Constitution Horace Binney, 1862 **Federal Habeas Corpus Practice and Procedure** James S. Liebman, Randy Hertz, 1998 Previous edition 2nd published in 1994 **The History and Law of the Writ of Habeas Corpus** Edward Ingersoll, 1849

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