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What is habeas corpus and why does it matter?

Translated into modern English, the Latin phrase *habeas corpus* means “bring me the body.” A writ of *habeas corpus* is a document signed by a judge commanding the government to produce a person in the government’s custody or control.

Habeas corpus is a fundamental right. It is considered “fundamental” because it is foundational to all other rights. Without *habeas corpus*, anyone can be disappeared by any governmental authority. Without *habeas corpus*, you have no right to a trial, and no right to protect yourself. Due process does not exist without *habeas corpus*.

The principles of *habeas corpus* are enshrined in the United States Constitution and implemented by federal statute. Article I, Section 9, Clause 2 of the U.S. Constitution provides: “The Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.”

The Constitution guarantees the right of *habeas corpus* to *everyone on American soil or under American jurisdiction or control*. It is not a right granted only to U.S. citizens. Why is that? It goes back to the meaning of a “fundamental right.” *Habeas corpus* is not just an American right, it is a *human right*. It is a right to which each of us is entitled not because we are Americans, but because we are human. The principle of *habeas corpus* in western tradition dates back at least to ancient Rome. It was included in the Magna Carta in 1215. A civilized society recognizes the worth and dignity of every human and guarantees every human the right to protect oneself and society from tyranny.

Under the United States Constitution, *habeas corpus* may be suspended by Congress and only under specific, extreme wartime conditions. Congress may delegate its authority to the President.

Habeas corpus has been suspended four times in U.S. history, each time during an active war or its immediate aftermath: 1) During the Civil War; 2) During Reconstruction following the Civil War; 3) in the Philippines in the early 1900s; and 4) in the Hawai’i Territory immediately after the attack on Pearl Harbor. Each suspension has been highly controversial and resulted in multiple U.S. Supreme Court opinions upholding the right to a writ of *habeas corpus*, and has led to the resignation of multiple high-level government officials.

More information can be found here:

https://en.wikipedia.org/wiki/Habeas_corpus_in_the_United_States#Suspension_in_the_Philippines