

State of Michigan LAW DAY 2009 Essay Contest
"A Legacy of Liberty: Celebrating Lincoln's Bicentennial"

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Should the prisoners at Guantanamo Bay have the right to habeas corpus?

Should prisoners at Guantanamo Bay be allowed habeas corpus? Habeas corpus is Latin for "you have the body". Prisoners will often try to get released from prison by filing a petition for a writ of Habeas Corpus. A writ of habeas corpus requires that the prisoner be brought before the court to determine if the prisoner is being held against the law and if he should be released from prison. I think prisoners at Guantanamo Bay should be allowed habeas corpus.

In the court case Brown v. Vasquez, 952 F.2d 1164,1166 (9th Cir. 1991), the Supreme Court "recognized the fact that the writ of habeas corpus is the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action" Harris v. Nelson, 394 U.S. 286 290-91 (1969). "Therefore, the writ must be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected." Harris, 394 U.S. at 291. At age 19, Murat Kurnaz was arrested three months after 9/11. He was held at Guantanamo for a total of five years before the FBI, U.S. intelligence, and German intelligence agreed that he had no terrorist connection.

In 2006, President Bush suspended the right of habeas corpus for people "determined by the United States to be an 'enemy combatant' in the Global War on Terror." President Bush faced severe criticism for suspending writs of habeas corpus, since many people felt this went against the principles of our Founding Fathers. President Bush was not the first president to suspend the writs of habeas corpus. President Abraham Lincoln also suspended writs of habeas corpus during the Civil War. Both presidents made this decision based on the dangers of war, and both were criticized for suspending habeas corpus, which was seen as not upholding the Constitution.

Prisoners at Guantanamo Bay, even though they are not American citizens, should be protected under habeas corpus. President Bush's ruling suspending habeas corpus did not specifically say who in the U.S. determines who is and who is not an "enemy combatant". This can result in people who have done nothing wrong being held for an undefined amount of time against their will, without a chance to be heard in court. Our country was formed by immigrants from other countries and founded on our belief in freedom and the rights and liberties of all people. The VI Amendment to the Constitution states "the accused shall enjoy the right to a speedy and public trial", and that they "be informed of the nature and cause of the accusation".

In conclusion, prisoners at Guantanamo Bay should be allowed habeas corpus rights, and therefore the rights to a quick and fair trial. The prisoners should also be told why they are being held and what they are being accused of, as required by the U.S. Constitution.