Habeus Corpus Essay, Research Paper

History Repeated

A Confederate Soldier, on leave from war, was captured, imprisoned and denied any right to a trial. Though summoned by the Chief of Justice of the United States of America, John Merryman, by right of Habeas Corpus was denied a trial (Britannia Sec.1). In 1679 the incorporation of Habeas Corpus was granted to all citizens, authorizing judges to review a court case for all imprisoned perpetrators. At the outbreak of the Civil War President Abraham Lincoln repealed the original writ of Habeas Corpus and suspended the right stating that it could be revoked ?in a case of rebellion or invasion if the public safety may require it?(Britannia sec.1). Through years of examining the United State?s government in school, I never fully understood the proceedings and the rights to a fair trial. After reading Habeas Corpus, an article reviewing the changes of the writ, I realized what might seem fair and honest never truly is. This article stunned and intrigued me. I was able to connect Lincoln?s alteration of this writ to that by President Roosevelt and in 1996 by President Bill Clinton (A.PA9).

William Rehnquist, author of, ?All Lies But One?, believes that Abraham Lincoln had an obligation to suspend the right of Habeas Corpus in 1861 at the offset of the Civil War, as did Franklin D. Roosevelt during World War II. ?I would have agreed with his [Lincoln] view as to suspending the writ of habeas corpus, I think, because that seemed to be a real threat to the union?(Gergen 3). I both agree and disagree with Rehnquist?s statements and beliefs. Abraham Lincoln and Roosevelt had justifiable motives for suspending the law, but should have submitted the proposition to congress for final authorization. I believe President Bill Clinton enacted to same proposition, but altered the formality of it. The Death Penalty and Public Safety Act of 1996 was proposed by the congress and finalized by the president after proper procedure had taken place (A.P. A9). This bill altered the writ of habeas corpus yet one more time, changing history once again.

William Rehnquist describes numerous defaults by our governing system, but uses ?a time of war? as an excuse. ?I don?t know if it?s a terribly conscious thing, and of course, I don?t know if there?s anything equivalent of wartime…it?s in the back of your mind; it can?t help but be?(gergen 3). I can not grasp that this movement was in the back of Lincoln?s mind during the war. Nor can I understand how Roosevelt could have imprisoned over 75,000 Japanese American?s out of paranoia for spies(Gergen 3). If wartime was of the up most importance to Abraham Lincoln and Franklin Roosevelt then why did they both carry out the presidential elections which followed just a few months after? President Bill Clinton had similar motives. He plotted to pass the act of 1996 just in time to celebrate the one-year anniversary of the Oklahoma City terrorist bombing in the Alfred P Murrah Building. This enabled Clinton to gain the respect of numerous citizens who may have not supported him otherwise (Gergen 4). Now, the writ of habeas corpus prevents convicted criminals from appealing their case without sufficient proof of new impacting evidence, such as in the case of Terry Nichols and Timothy McVeigh (AP.A9). All three situations, though decades apart, furthered the prosperity of each individual president while denying the detainees and prisoners of their personal liberty?s guaranteed to them by the Constitution of the United States of America.

Reinquist added that an overly kind person could not successfully fill a presidency: ?You don?t want someone who is constantly kind and overly cautious in a situation like that. You want someone who has balance?(Gergen 1). Here he is speaking about Lincoln and how his sternness impacted his presidency and allowed him to make such decisions as taking away the civil liberties of the people. Roosevelt was undoubtedly a callous person. He interned the population of all Asian American?s on the West Coast out of fear. He imprisoned all people of Japanese decent, imposed curfews, and murdered innocent victims, all under the act of denying them their civil liberties; they had none (Gergen 4). I believe this is a drastic difference between the all three of the presidents. Clinton passed the habeas alteration to accommodate to the sympathy of the public, where as Lincoln did it as a thoughtless maneuver during the Civil War and Roosevelt did to ease the public?s suspicion of spies. Clinton?s modification did not completely revoke the prisoner?s privilege. It limited the number of times one convicted felon could appeal for a new case, while shortening the time frame in which they had to do so from one hundred and twenty months to one year, but was far less drastic then those who served before him.

The changes made to the writ of habeas corpus are still imprecise. Each of these three presidents has all found ways to work around the system to deny ?certain inalienable rights? to the citizens of the United States. The Constitution states that Congress is the only branch granted power to bestow this denial upon Americans. I was startled when I realized the correlations between all three of these cases. Not only has history repeated itself three times, but also nobody has made an effort, since the civil war, to patch up the mistakes made. Unless someone with enough power steps forward to say the American people have been wronged it will continue to happen time and time again. I believe Clinton?s current motive for reinstating the writ of habeas corpus is a positive movement. It does not completely revoke the individual liberty of criminals. Unlike Lincoln or Roosevelt, Clinton passed this bill with the permission of the United States government, making it a legal change to the original law.

?All Laws But One? critiqued the formalities for depriving American?s of their civil liberties, but is there ever a time when this act is justifiable? Through the research of this paper I do not believe there is any justification for denying anyone his or her inalienable rights, contrary to the United States Constitution. The degree of deprival may vary, but justice must be granted. Unless clarity is brought to the writ oh habeas corpus than history will continue to repeat itself. Who knows, someday we may be the ones ineligible for our individual liberties and freedom.

?Habeas Corpus? Encyclopedia Brittanica Online.

[accessed august 31 2000]

U.S. News & World Report. Writ. David Gergen. Perf.

William Rehnquist and David Gergen. PBS. 11 Nov. 1998