

What is Habeas Corpus...and similar legal terms?

The reason for describing Habeas Corpus is because of its importance to rights of the citizen. In the context of civil rights, this term has much application; as Habeas Corpus is defined in The Random House College Dictionary:

A writ requiring a person to be brought before a judge or court for investigation of the restraint of a person's liberty, used as a protection against illegal imprisonment

The information that follows is from *The Tyranny of Good Intentions* by Paul C. Roberts and Lawrence Stratton.

About the Habeas Corpus Act: Parliament (English Law) strengthened this prohibition of arbitrary arrests in 1679; The Great Writ, as it was known, required that those in custody be charged and detained lawfully.

The authors continue:

- Due process
- No crime without intent
- Habeas corpus
- No self-incrimination
- No ex post facto laws
- The rights to counsel
- The right to face one's accusers
- The duty of the Prosecutors to serve truth...made up the Rights of Englishmen.

About the Plea Bargain (versus the right to face one's accusers or a trial): the authors of the book write:

The injunction against self-incrimination ruled out the possibility of plea bargaining. Plea bargaining is akin to torture, because it is used to extract false confessions from the accused so that they can avoid being tried on a more serious charge.

The concern (of the Plea Bargain) was that, without a trial in which the government was forced to prove its case, **false pleas would crowd out truth**. A Plea Bargain can simply bypass the collection of evidence (or an investigation); a citizen could be charged without evidence and held until they confess the crime – circumventing due process and the claim that the defendant is innocent until proven guilty.

In a Plea Bargain, the defendant was guilty the minute he was charged...and evidence of the crime is inconsequential. The heavy hand or bully pulpit of the courts is the necessary weight behind the preemptive gavel.