

## Habeas Corpus Murdered, Few Notice

Posted by

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**ADE** - Kurt Nimmo - On the Google News page this morning, mention of the Detainee bill is nowhere to be found, whereas ?Anna Nicole Smith?s exchange of vows with her lawyer Howard K. Stern on a boat near Nassau? is all the rage, as the Boston Globe would have it.

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#### Kurt Nimmo

Another Day in the Empire  
September 30th 2006

Now that Congress, at the behest of Bush?s Schmittian fascist puppetmasters, has nullified habeas corpus, a legal tradition going back to the 12th century, we can concentrate on more important subjects, for instance ?space tourist? Anousheh Ansari, who ?offers uncommon insight into life on the International Space Station,? in particular ?the hazards of washing hair in zero gravity,? [according to the Australian](#) .

On the Google News page this morning, mention of the Detainee bill is nowhere to be found, whereas ?Anna Nicole Smith?s exchange of vows with her lawyer Howard K. Stern on a boat near Nassau? is all the rage, as the [Boston Globe](#) would have it.

Determinedly keyboarding in ?detainee bill? on the Google News Search page returns mundane results, headed by a Los Angeles Times article declaring the ?complex bill,? wrangled through ?backroom negotiations,? will give Republicans ?a rhetorical club to use against Democrats on terrorism? come the midterm elections.

Trashing the Constitution and the Bill of Rights, and blotting out specific mention of the ?Writ of Habeas Corpus,? enshrined in Article One, section nine, represents a long sought after coup de grace, far worse than even Lincoln?s suspension on April 27, 1861, during the ?Civil War,? more accurately described as a war waged by the federal government against states declaring their intent to secede from the ?Union.? Lincoln suspended habeas corpus and set-up military courts to persecute Copperheads, a faction of Democrats in the North who opposed Lincoln?s war against the South.

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As an example of what we can expect in the months ahead, consider Clement Vallandigham, leader of the Order of the Sons of Liberty, who denounced "King Lincoln" and demanded his dethronement. Vallandigham, an Ohio politician, was arrested as a violator of General Order No. 38, issued by General Ambrose E. Burnside, denied a writ of habeas corpus, convicted by a military tribunal of "uttering disloyal sentiments," and sentenced to two years of internment in a military prison.

In *Ex parte Milligan*, an important United States Supreme Court case involving civilians and military tribunals, the Court, [according to Wikipedia](#), "decided that the suspension of habeas corpus was lawful, but military tribunals did not apply to citizens in states that had upheld the authority of the Constitution and where civilian courts were still operating, and the Constitution of the United States only provided for suspension of habeas corpus if these courts are actually forced closed. In essence, the court ruled that military tribunals could not try civilians in areas where civil courts were open, even during times of war". It further observed that during the suspension of the writ of habeas corpus, citizens may be only held without charges, not tried, and certainly not executed by military tribunals. After all, the writ of habeas corpus is not the right itself, but merely the ability to issue orders demanding the right's enforcement."

*Ex parte Milligan* left unaddressed the president's ability to suspend habeas corpus independently of Congress. Of course, all of that is now water under the bridge, as Congress, brimming with neocon sycophants, has slavishly deferred to King Bush, who has joked that it would be "easier" to rule as a dictator.

Copperhead Democrats may have gone up against the Republican Lincoln—who we are told saved the republic and freed the slaves (in fact, Lincoln was a racist who wanted to ethnically cleanse Blacks from America; see Lerone Bennett, Jr.'s [Forced Into Glory: Abraham Lincoln's White Dream](#))—but we should not expect such hardihood from the current crop of Democrats, many of whom indeed voted against Bush's detainee bill but don't have what it takes for sustained opposition to the neocon drive to dismember the Constitution.

As presidential hopeful Hillary Clinton characterized it, Democrats who voted against the Schmittian detainee bill put "winning elections ahead of a smart strategy for winning the war on terror," [according to the New York Times](#). Senator Ben Nelson of Nebraska, a Democrat up for re-election who often breaks with his party, said he was willing to follow the lead of Senator John McCain, Republican of Arizona, who lent the final legislation his strong endorsement, "apparently a slick move on Nelson's part as John "Keating Five" McCain, friend of racketeers and Mafia dons (Joseph "Joe Bananas" Bonano, head of the New York Bonano crime family),

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is yet another presidential hopeful, a man with all the power and personality of a waterfront syndicate boss.

If you go into a backroom with dogs, however, you're going to come out with fleas. Nelson, a Democratic senator from Tallahassee, supported a failed amendment that would have retained habeas corpus rights. Nelson said he welcomes legal challenges to the bill, [according to the Gainesville Sun](#)

In the meantime, thugs in black vans will be free to disappear Mr. Nelson's relatives and friends, that is if King George deems them a threat to the war on terrorism, that is to say the manufactured terrorist threat engineered to provide a pretext to invade small countries where putative haters of our freedoms reside.

As the blogger [Adam Ash explains](#), the term enemy combatant means a legal non-person. The Italian philosopher Giorgio Agamben likens them to the first humans to be so designated, under Roman law a few millennia ago. They didn't call them enemy combatants then, they called them homo sacer. This was a human being who could be killed by anyone, without the killer ever being guilty of homicide.

In fact, the idea of homo sacer was contrived as an excuse to impose justitium, or a state of exception, that is to say a suspension of civil liberties and the imposition of martial law. Agamben argues, the so-called sacred and inalienable rights of man prove to be completely unprotected at the very moment it is no longer possible to characterize them as rights of the citizens of a state.

Indeed, our civil liberties, enshrined in the Constitution and the Bill of Rights and once considered our birthright, as Agamben would have it, may no longer be characterized thus, as they were systematically plowed under the manure of tyranny on the day after everything changed, including a liberal tradition (as in classic liberalism, as opposed to social liberalism) spanning back to the Magna Carta Libertatum, originally issued in 1215.

Finally, as a side note, it should be remembered that the Levellers, a mid-17th century English political movement, believed the only traceable right of their day going back to the Magna Carta was due process. In our day, not even due process of law, as formerly spelled out in the Fifth Amendment, has survived the onslaught of the neocons, who are at base nothing more or less than followers of the Nazi crown jurist Carl Schmitt and his Die Diktatur philosophy.

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In America, the Reichspräsident rules supreme, and now shall issue lettres de cachet, arbitrary orders issued directly from the king, not subject to appeal.

But never mind. If you're feeling glum over the turn of events, you can always retreat to Cook Island with Survivor members of the Aitutaki tribe, even if as a passive spectator on the receiving end of the idiot tube.

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