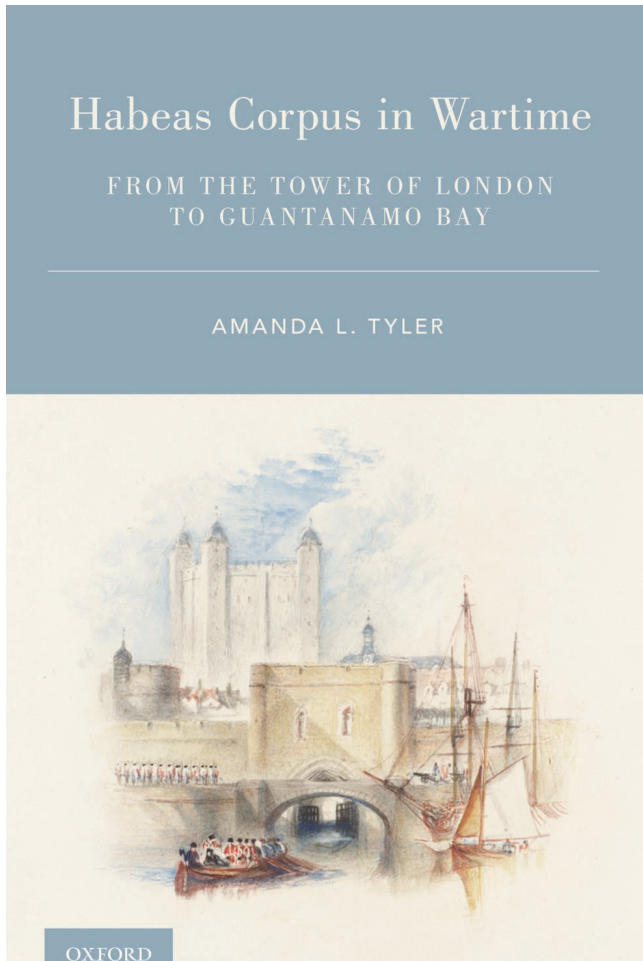


Habeas Corpus in Wartime

From the Tower of London to Guantanamo Bay

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Amanda L. Tyler is a Professor of Law at the University of California, Berkeley School of Law, where she teaches and writes about the federal courts, the Supreme Court, constitutional law, legal history, and civil procedure.



Habeas Corpus in Wartime unearths and presents a comprehensive account of the legal and political history of habeas corpus in wartime in the Anglo-American legal tradition. The book begins by tracing the origins of the habeas privilege in English law, giving special attention to the English Habeas Corpus Act of 1679, which limited the scope of executive detention and used the machinery of the English courts to enforce its terms. It also explores the circumstances that led Parliament to invent the concept of suspension as a tool for setting aside the protections of the Habeas Corpus Act in wartime.

Turning to the United States, the book highlights how the English suspension framework greatly influenced the development of early American habeas law before and after the American Revolution and during the Founding period, when the United States Constitution enshrined a habeas privilege in its Suspension Clause. The book then chronicles the story of the habeas privilege and suspension over the course of American history, giving special attention to the Civil War period. The final chapters explore how the challenges posed by modern warfare during the twentieth and twenty-first centuries have placed great strain on the previously well-settled understanding of the role of the habeas privilege and suspension in American constitutional law. Throughout, the book draws upon a wealth of original and heretofore untapped historical resources to shed light on the purpose and role of the Suspension Clause in the United States Constitution, revealing all along that many of the questions that arise today regarding the scope of executive power to arrest and detain in wartime are not new ones.

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