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Curriculum Units by Fellows of the Yale-New Haven Teachers Institute  
2008 Volume I: Controlling War by Law

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## **The Writ of Habeas Corpus, The Constitution and Abraham Lincoln, War President**

Guide for Curriculum Unit 08.01.01

by J. Robert Osborne

The writ of habeas corpus came from the legal traditions of English common law. It survived because it represented the struggle of the individual against the excess of governmental abuse. It directly addressed the inequality of power between a citizen and the government and is the basis of this curriculum unit. The writ is an excellent beginning to the study of the origins of the government of the United States and is a key legal concept to follow through the history of America. This unit focuses on the effects of war in the maintenance of this basic right, particularly the American Civil War. Abraham Lincoln did not hesitate to suspend the writ of habeas corpus when he believed that the Union was threatened and his actions will be the primary focus of the unit. Significant time is devoted to the origins of the writ itself and what it means. The curriculum unit also links Lincoln's struggles with Chief Justice Taney and the Supreme Court with the very recent developments in the legal history of habeas corpus in the Supreme Court's decision of the case, *Boumediene v. Bush* .

(Developed for U. S. History I, grade 10; recommended for U. S. History, grades 10-11)

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