Parliamentary Assembly
Assemblée parlementaire
https://pace.coe.int

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

Resolution 703 (1979)[1]

300th anniversary of the Habeas Corpus Act

Parliamentary Assembly

The Assembly,

1. Noting that the year 1979 marks the 300th anniversary of the first English Habeas Corpus Act ;

2. Considering that, according to English principles protected by the Habeas Corpus Act, no citizen can be imprisoned without previous judgment, nor can he be arrested before trial without a warrant of a magistrate, save by a police officer who reasonably suspects a crime to have been committed or by a private citizen who takes him in flagrante delicto, and that, in those events, he must be brought before the court as soon as possible ;

3. Considering, furthermore, that the arrested person, or his counsel, may apply for a writ of Habeas Corpus by which he must be produced in court where good legal cause must be shown for his detention, in default of which he is entitled to be released ;

4. Stressing that, without this procedural mechanism, many of the substantive rights that have been recognised as fundamental for justice and human dignity must remain little more than mere aspirations ;

5. Noting that constitutions and statutes of all civilised countries contain rules and norms similar to those quoted above ;

6. Considering the fundamental importance of the Habeas Corpus Act in the historical development of human rights, and as a source of inspiration for the authors of the European Convention on Human Rights ;

7. Considering that the effective safeguard of Habeas Corpus by independent courts may well be more important than written guarantees ;

8. Noting that under the European Convention on Human Rights an effective international control over the practice of states in relation to respect for the principle of Habeas Corpus has been established ;

9. Recalling in this respect the great importance of the European Commission of Human Rights and the European Court of Human Rights, which are celebrating their twenty-fifth and twentieth anniversaries in 1979, for fair legal proceedings and for the safeguard of human rights in general ;

10. Expressing the hope that the principles of Habeas Corpus may be applied throughout the world,

11. Reaffirms the fundamental value of Habeas Corpus as a constitutional guarantee and cornerstone of the rule of law for the protection of individual freedom against all attacks ;

12. Urges member states that have not yet done so to incorporate the rules of the European Convention on Human Rights into their own law, so that they can be applied directly by national courts ;

13. Calls on those member states which have not yet done so to recognise the right of individual application, under Article 25, and the compulsory jurisdiction of the European Court of Human Rights, under Article 46 of the convention.

---

1. Assembly debate on 5 October 1979 (12th Sitting) (see Doc. 4407, report of the Legal Affairs Committee). Text adopted by the Assembly on 5 October 1979 (12th Sitting).