

# Guantánamo and Illegal Detentions



centerforconstitutionalrights  
*on the front lines for social justice*

# The Center for Constitutional Rights

The Center for Constitutional Rights is dedicated to advancing and protecting the rights guaranteed by the United States Constitution and the Universal Declaration of Human Rights. Founded in 1966 by attorneys who represented civil rights movements in the South, CCR is a non-profit legal and educational organization committed to the creative use of law as a positive force for social change.

CCR uses litigation proactively to empower poor communities and communities of color; to guarantee the rights of those with the fewest protections and least access to legal resources; and to train the next generation of civil and human rights attorneys.

Formed in order to work hand in hand with people's movements, CCR has lent its expertise and support to a wide range of movements for social justice. We are dedicated to defending the right to political dissent, combating the mass incarceration of both citizens and immigrants, and fighting government abuse of power. We strive to complete the unfinished civil rights movement through targeting racial profiling and other modern-day manifestations of racial and economic oppression and through combating discrimination that is based on gender or sexuality.

For decades, CCR has pushed U.S. courts to recognize international human rights and humanitarian protections – and we have had groundbreaking victories that established the principle of universal jurisdiction in this country and extended human rights standards to abuses committed by corporations and other non-government groups.





## Rescue the Constitution: Restore Habeas Corpus

The ancient right of *habeas corpus* requires that anyone who is arrested must be brought before a judge, charged with a crime and have evidence brought forward against them. Created to prevent the King from simply locking up subjects in secret dungeons and throwing away the key, *habeas* is the most basic of democratic rights. It is the very heart of due process of law.

The Military Commissions Act of 2006 (MCA) stripped the right to *habeas corpus* from anyone detained at Guantánamo Bay as well as for any non-citizen the government detains anywhere, including in the U.S., and labels an “enemy combatant.” CCR is working to challenge this unprecedented expansion of executive power that has eroded the very foundation of our Constitution.

## Guantánamo Global Justice Initiative

In November 2001, President Bush issued “Military Order Number One,” which claimed that he could capture, arrest or kidnap and then hold forever, without trial and without the right to challenge their detention in court, any non-citizen that he declared was a ‘terrorist.’ On January 11, 2002, the first prisoners were brought from Afghanistan to Guantánamo Bay Naval Station in Cuba. One month after these first 20 men arrived, the Center for Constitutional Rights filed the first case on behalf of detainees at Guantánamo, seeking a *habeas corpus* hearing in which the legitimacy of their detention would be reviewed by the federal courts.

After winning a landmark Supreme Court decision in 2004 establishing that Guantánamo detainees can challenge their detention in federal courts (*Rasul v. Bush*), CCR organized a network of over 500 pro bono lawyers to file *habeas corpus* petitions and founded the Guantánamo Global Justice Initiative to coordinate this work.

Since that time, we have learned that the vast majority of these men are innocent of any crimes against the United States and have been brutally tortured and abused, both physically and psychologically. We have seen Guantánamo become an international symbol of lawlessness and U.S. arrogance abroad, condemned by international leaders, the United Nations and international human rights organizations.

The U.S. government has made every effort to evade judicial review of its detention and interrogation practices at Guantánamo Bay. We continue to fight for humane treatment of detainees and for the closing of the prison camp at Guantánamo. CCR is deeply committed to ensuring that detainees are either charged and given fair trials or released to safe countries.

CCR is a leader in the movement to recognize *habeas* rights for detainees, regardless of where they are held, and to end the use of offshore prisons designed to be outside the reach of law. We work to ban torture and defend the rights of those held at Guantánamo, at Bagram Airbase in Afghanistan, at Abu Ghraib and elsewhere in Iraq, and at secret CIA prisons around the world. The Guantánamo Global Justice Initiative is dedicated to the fight against secrecy and torture; to holding the U.S. government accountable for its illegal actions; and to obtaining justice for victims.

Ruhal Ahmed and Shafiq Rasul (two of the “Tipton Three”) were held at Guantánamo Bay for two years before being repatriated to the U.K. where they were released without charge. Shafiq Rasul was CCR’s client in the landmark Supreme Court case *Rasul v. Bush*, which held that detainees have the right to challenge their detention in U.S. courts.



## Landmark Cases

**Rasul v. Bush**

**Al Odah v. United States**

**Boumediene v. Bush**

In February 2002, shortly after the first detainees were sent to Guantánamo, CCR filed the first *habeas corpus* petition challenging the U.S. government's practice of holding foreign nationals in indefinite detention without charges, trials or counsel. Over the Bush administration's objections, the Supreme Court heard the case, *Rasul v. Bush*, and in June 2004 ruled that Guantánamo detainees have access to U.S. courts to challenge their detention and treatment while in U.S. custody. Subsequent to this decision, the *habeas* petitions were sent back to the district court for further proceedings.

Immediately after the Supreme Court's decision in *Rasul*, CCR and cooperating counsel filed eleven new *habeas* petitions on behalf of more than 70 detainees. These cases eventually became the consolidated cases of *Al Odah v. United States* and *Boumediene v. Bush*, which are now the leading cases determining the rights of non-citizens to challenge the legality of their detention while held by the United States, and the constitutionality of the Military Commissions Act of 2006.

## CIA Ghost Detentions

Soon after 9/11, reports began appearing that people were being picked up around the world and held by the Central Intelligence Agency (CIA). These people were not being held by their own countries' intelligence or security services, and they were not being openly held by the U.S. military. Instead, they had become "ghosts" held in secret prisons unknown to anyone in the outside world. These so-called "black sites" have been located around the world – in Thailand, Afghanistan, Africa, several Eastern European countries, and likely elsewhere.

The CIA's secret detention program holds people in secret facilities—their detention often unacknowledged, they are barred from communicating with family, legal counsel, or anyone in the outside world. These individuals are victims of enforced disappearance as defined by international human rights law. The CIA also admits to using "enhanced" interrogation techniques against ghost detainees held in black sites—techniques, like waterboarding, that amount to torture.

There is no way to know where all of these secret prisons are located or how many people the U.S. is holding in black sites. CCR is committed to shining a light on these clandestine abuses and ending the practice of secret detention wherever it occurs.

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