

Detention at Guantanamo Bay and the Creation of a New Brand of Statelessness

David C. Baluarte¹

In early 2002, U.S. authorities began to transport prisoners in the “war on terror” to the military base at Guantanamo Bay, Cuba. For years, the government committed vast resources to obscuring the public record of these individuals, and the fight over Guantanamo focused on whether U.S. courts had jurisdiction to review the basis for their confinement. Now, after the Supreme Court’s resounding affirmation of federal court jurisdiction over Guantanamo detainees and President Barack Obama’s order to close the facility, U.S. authorities are grappling with a different set of concerns.

One of those concerns is the fate of up to sixty men currently detained at Guantanamo who pose no threat to the United States, but who cannot be released to their countries of nationality because of real threats of persecution and torture. The specific circumstances of these men vary, but in each case, because of the original allegations that led to their detention, and their subsequent branding as Guantanamo detainees, third countries have been very hesitant to step forward to defend their interests.

For all practical purposes, these men are stateless. Moreover, U.S. standard release procedures effectively discriminate against these men, who are detained at this point because of their stateless status rather than a legitimate national security purpose. If third countries are unwilling to provide a safe haven for these men, release into the United

States is the only way for U.S. authorities to begin to mitigate the irreparable harm that they have already caused them and their families.

Overview of Detention at Guantanamo Bay

In response to the terrorist attacks of 11 September 2001, the U.S. Congress authorised the President of the United States to use “all necessary and appropriate force against those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks [...] or harbored such organizations or persons.”² Soon thereafter, the President ordered the U.S. military to invade Afghanistan, with the mission to quell the threat posed by the al Qaeda terrorist organisation and put down the Taliban regime that was known to support it.

In November 2001, former President George W. Bush signed an executive order which authorised the Department of Defense to detain a broad category of non-citizens incident to efforts to combat international terrorism.³ That order granted the President exclusive authority to determine who should be detained and categorically denied such detainees the right to challenge any aspect of their detention.⁴ Pursuant to that order, hundreds of individuals were captured around the world and detained as “enemy combatants”.

U.S. authorities began to transport the first detainees to the facility at Guantanamo Bay Naval Base, Cuba, in January 2002.⁵ While the U.S. government selected Guantanamo specifically because it was considered beyond the reach of U.S. laws, the Supreme Court held in its landmark decision in *Rasul v. Bush*⁶ that federal courts had statutory jurisdiction to consider the petitions for habeas corpus filed by foreign nationals detained as enemy combatants at Guantanamo. In the wake of that decision, more than 200 petitions for habeas corpus were filed on behalf of more than 300 detainees.

The U.S. government adopted the position that *Rasul v. Bush* merely required a status determination, and established its own “enemy combatant” review process for Guantanamo detainees called Combatant Status Review Tribunals (CSRTs), which it intended as a substitute for habeas corpus.⁷ An implementing memorandum described the CSRTs as “non-adversarial proceeding[s] to determine whether each detainee [...] meets the criteria to be designated as an enemy combatant”⁸ defined as “an individual who was part of or supporting Taliban or al Qaeda forces, or associated forces that are engaged in hostilities against the United States or its coalition partners [...] include[ing] any person who has committed a belligerent act or has directly supported hostilities in aid of enemy armed forces.”⁹

The initial findings of the CSRTs indicated that many of the detainees had not committed hostile acts against the United States, and provided evidence that the U.S. government’s claim that it was only detaining “the worst of the worst” at Guantanamo was inaccurate.¹⁰ In federal court, those representing the detainees in their habeas proceedings argued that the CSRTs did not offer sufficient process, and that many more detainees than

those initially identified by the government were innocent of any wrongdoing.¹¹ However, before courts could resolve that question, the U.S. Congress passed the Detainee Treatment Act (DTA), which purported to strip federal courts of jurisdiction to hear habeas petitions filed on behalf of Guantanamo detainees, and established an alternative review process, granting the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) exclusive jurisdiction to hear appeals from CSRT determinations.¹² Significantly, the DTA limited the scope of the D.C. Circuit’s review, authorising it only to determine whether a CSRT was carried out in accordance with the regulations issued by the Secretary of Defense.¹³

In June 2006, the Supreme Court held that the jurisdiction limiting provisions of the DTA only applied to habeas petitions filed after the statute’s effective date, leaving federal court jurisdiction intact with regard to all of the petitions filed before December 2005.¹⁴ But in October 2006, the U.S. Congress responded with the Military Commissions Act (MCA), unequivocally precluding federal courts from considering habeas petitions or “any other action” filed by any detainee captured after 11 September 2001 who was held anywhere as an enemy combatant.¹⁵ The MCA left the CSRT appeal procedure established by the DTA as the only avenue for Guantanamo detainees to access federal courts.¹⁶

In June 2008, in its watershed decision in *Boumediene v. Bush*,¹⁷ the Supreme Court held that the detainees at Guantanamo have a constitutional right to habeas review of their detention. In so doing, the Court recounted some of the “myriad deficiencies” of the CSRTs, such as the limited opportunities to present evidence, the lack of a right to counsel, and limitations on the access of

detainees to evidence presented against them and their ability to confront witnesses. The Court found that CSRTs “fall well short of the procedures and adversarial mechanisms that would eliminate the need for habeas corpus review,” and as a consequence, held that the MCA was unconstitutional to the extent that it was intended to strip federal courts of habeas jurisdiction and replace it with the process set forth in the DTA.¹⁸ As a result, seven years after the first habeas petitions were filed on behalf of detainees at Guantanamo Bay, district courts began reviewing the substance of their numerous claims of illegal detention.

On 22 January 2009, two days after entering office, President Obama signed an Executive Order, which stipulated: (1) the closure of detention facilities at Guantanamo; and (2) the immediate review of all Guantanamo detentions.¹⁹ The Order recognised that more than 500 of the approximately 800 detainees held in the facility since its establishment had been transferred to their country of nationality or a third country, and that “a number of the individuals currently detained at Guantanamo are eligible for such transfer or release.”²⁰

Many of these detainees who are eligible for release, however, cannot be returned to their country of nationality because of threats of persecution or torture. The Chinese Uyghurs, perhaps the detainees that have received the most publicity in recent months, are representative of this category of detainees.²¹ The story of their struggle over the past seven years is emblematic of the particularly egregious injustice suffered by those men as Guantanamo detainees whose detention has never been justified, but who continue in detention limbo because they cannot be returned to their countries of nationality.

The Case of the Chinese Uyghurs

Chinese Uyghurs are a Turkic Muslim minority whose members reside largely in the Xinjiang province of far-west China and suffer severe discrimination and persecution by the Chinese government. Twenty-two Uyghurs were detained and transferred to Guantanamo in the wake of the U.S. invasion of Afghanistan.²²

There are many similarities in the Guantanamo Uyghurs’s tales of how they fled China and ended up in expatriate Uyghur communities in Afghanistan.²³ For example, Adel Noori was imprisoned by the Chinese prior to his flight to Afghanistan, and is presently wanted by the Chinese authorities for “political crimes” based on his participation in a political demonstration in Ghulja, China in the 1990s.²⁴ Similarly, Ali Mohammed who left China to escape persecution, travelled through Kazakhstan where he also faced persecution, and ultimately fled to Afghanistan to seek asylum.²⁵ Abdul Sabour also fled China to escape persecution, travelling first to Kyrgyzstan, where the police stole most of his money, then to Pakistan, and finally to Afghanistan, where he was befriended by Uyghurs who helped him get to a Uyghur village where he could live and work.²⁶

In October 2001, U.S. forces bombed the area where these men were seeking refuge, and together they fled.²⁷ Initially, they escaped to the mountains for immediate protection, and then after a few days were able to escape to Pakistan, where they thought they had reached safety. However, they were turned over to the U.S. military by Pakistani villagers at a time when U.S. forces were offering a substantial bounty for terrorist fighters. These men were subsequently sent to Guantanamo and deemed enemy combatants by CSRTs based on allegations

that they are members of the East Turkestan Islamic Movement (ETIM), and that the ETIM receives support from al Qaeda. In the case of Ali Mohammed, an initial CSRT determined that he was not properly classified as an enemy combatant in 2002; however, after the Assistant Secretary of Defense for Detainee Affairs expressed concerns about the appearance of inconsistency of this finding, it was ordered that he undergo a second CSRT, which suspiciously concluded that he was an enemy combatant.²⁸

Five Uyghurs who had been captured by bounty-hunters in Pakistan and sold to U.S. authorities were determined by the CSRTs not to be enemy combatants and released to Albania in May 2006.²⁹ Representatives of the 17 Uyghurs that were not released to Albania insisted that there was nothing that substantially differentiated them from the five men who were transferred, yet they remained in detention.³⁰

In July 2008, in the first case in which the D.C. Circuit followed the procedures established by the DTA to review the CSRT determination, that court overturned the enemy combatant classification of one of the Uyghur detainees, Houzaifa Parhat.³¹ The Court indicated that the CSRT definition of enemy combatant required that the government demonstrate by a preponderance of the evidence that “(1) the petitioner was part of or supporting ‘forces’; (2) those forces were associated with al Qaida or the Taliban; and (3) those forces are engaged in hostilities against the United States or its coalition partners.”³² The court declined to determine whether Parhat was actually part of or supporting the ETIM (the first prong), instead overturning his enemy combatant classification because it found the U.S. government’s allegation that ETIM has links with al Qaeda (the second and third prongs) to be tenuous and unsubstantiated.³³

The Court in turn directed the U.S. government to release Parhat, to transfer him, or to expeditiously convene a new CSRT to make a determination in accordance with the rules of procedure, particularly with regard to the submission and consideration of evidence.³⁴

Following the D.C. Circuit’s rejection of the CSRT’s enemy combatant determination in Parhat’s case, the U.S. government conceded that it would treat the remaining Uyghurs as non-enemy combatants.³⁵ Nonetheless, their detention continued.

In October 2008, in an unexpected turn of events, a federal district court judge presiding over the habeas proceedings of the Uyghurs still in detention ordered that the U.S. government deliver the men from Guantanamo to his court room where he would release them into the care of supporters in the United States.³⁶ However, this order was quickly stayed and appealed to the D.C. Circuit, which overturned it in February 2009.³⁷

In overturning that order, the D.C. Circuit emphasised that it did not have the authority to release a non-citizen in the United States, contrary to the will of the executive and immigration laws, specifically exploring all of the impossibilities for release under immigration law.³⁸ Perhaps the most significant part of the court’s musings is its discussion of the Uyghurs’ ineligibility for asylum. The court indicated that “[t]o qualify as a refugee, an alien must (1) not be firmly resettled in a foreign country, (2) be of ‘special humanitarian concern’ to the United States, and (3) be admissible as an immigrant under the immigration laws,” and that the one ground for inadmissibility that the government could not waive was the “terrorist activity” ground.³⁹ However, whether this ground for inadmissibility would apply is clearly an open question.⁴⁰

The appeal of the D.C. Circuit's decision is currently pending before the U.S. Supreme Court,⁴¹ which will likely decide before its summer 2009 recess whether it will hear the case next term.⁴² Four Uyghurs were released to Bermuda in June 2009, and as of this writing, the 13 remaining Uyghurs are scheduled for release to Palau.⁴³ If the Court decides not to hear their case, or if the Uyghurs are released before a ruling on the matter, the D.C. Circuit's decision finding that federal courts do not have the authority to compel the government to release Guantanamo detainees into the United States will stand. This precedent is of some concern for a number of other detainees still held in Guantanamo.

Statelessness and the Discriminatory Effects of Detention

There are approximately 230 men from some 30 countries currently detained at Guantanamo.⁴⁴ The task force charged with reviewing the detainees filed under President Obama's 22 January order have announced that at least 30 of these men are eligible for release;⁴⁵ however, many cannot be returned to their country of nationality because of a credible threat of persecution or torture. For these men, release will not be possible until a third country accepts them. Moreover, advocates claim that the government has failed to identify a number of individuals for whom release is appropriate, and that when the task force finishes its work, some 60 men will be in this detention limbo.⁴⁶ Because these detainees cannot return to their home, and no other country has thus far been willing to offer them safe-haven, they are effectively stateless, stranded in detention because of their statelessness.

These men, similarly situated to the Chinese Uyghurs, are from Algeria, Azerbaijan, Egypt,

Libya, Palestine, Russia, Syria, Tajikistan, Tunisia, and Uzbekistan.⁴⁷ Admittedly, these men do not fit neatly into the legal definition of a stateless person;⁴⁸ rather, their lack of any effective link to a nationality puts them in the more amorphous category of *de facto* stateless persons. As support for such a classification, the situation of these men can be compared to that of a handful of *de jure*, or legally stateless Palestinian men detained at Guantanamo.

Perhaps the most compelling case of a legally stateless detainee at Guantanamo is that of Maher El Falesteny (Maher Refaat Al-Khawary), who has been held at Guantanamo since June 2002.⁴⁹ Maher was born in Gaza in 1965, moved with his parents to southern Lebanon as a child, and later moved to Jordan as a married man. Maher travelled to Pakistan in 2001 with the hope of obtaining papers from the United Nations that would enable him and his family to immigrate to Europe. While he was in Afghanistan making arrangements to enter Pakistan, the United States began its aerial bombing campaign, and villagers captured him and sold him to the Northern Alliance for a bounty. The record of Maher's CSRT does not suggest that he engaged in combat, knows how to use a weapon, or has received weapons training. Indeed, he has been cleared for release for at least two years. However, Maher has never been issued nationality or legal residency documents from any of the countries in which he has lived, and because no country has volunteered to give him a home, he is stranded in security detention limbo. In this way, Maher's case is indistinguishable from that of the Chinese Uyghurs and dozens of other *de facto* stateless detainees being held at Guantanamo.

Many of these men would not have been at risk of danger (including torture) in their

countries of habitual residence before their detention at Guantanamo, but now due to their association with terrorism, they are subject to such risk. In these cases, it is the Guantanamo experience that has rendered them *de facto* stateless. Others would have been considered stateless (*de jure* or *de facto*) regardless of whether or not they were detained at Guantanamo, but by virtue of their rendition and detention, their statelessness has come to the fore and is a real barrier to them living their normal lives in their countries of habitual residence.

For example, Oybek Jamoldinovich Jabbarov is an Uzbek national who was living in Tajikistan in 1999 when the Tajik government forcibly deported hundreds of Uzbek refugees, including Oybek and his wife, to Afghanistan.⁵⁰ Oybek was apprehended by Northern Alliance soldiers while on a business trip, taken to Bagram Air Base, transferred into U.S. custody, and sent to Guantanamo in 2002. The U.S. has approved Oybek to leave Guantanamo; however, his return to Uzbekistan would likely result in detention and torture, because Oybek was alleged to be affiliated with the Islamic Movement of Uzbekistan (IMU) which is an Islamic militant group in Uzbekistan. Similarly, Ahmed Belbacha, an Algerian who fled to Britain in 1999 after his life was threatened by Islamist extremists, was detained in Pakistan while studying religion and sold to U.S. troops for a bounty.⁵¹ Belbacha was approved for release from Guantanamo in February 2007, but has been fighting in court to block his return because of real fears that he will be tortured and killed. Faced with the apparent hopelessness of his situation, Belbacha attempted suicide in December 2007.

Whether the statelessness of certain Guantanamo detainees was created, or merely exacerbated by the circumstances surround-

ing their detention, the need to provide them with special protection is manifest. Nationality has been described as “the political and legal bond that links a person to a given state and binds him to it with ties of loyalty and fidelity, entitling him to diplomatic protection from that state.”⁵² Those without a nationality are particularly vulnerable at the international level because they receive no diplomatic protection. It is partially for this reason that international human rights law establishes that the right to nationality is fundamental and the international community promulgated specific conventions for the protection of stateless persons and the reduction of statelessness.⁵³

That the United States is not party to the conventions on statelessness and does not recognize that such persons should be afforded special protections should only heighten concerns about the fate of the stateless detainees at Guantanamo. Indeed, in its brief recently filed with the Supreme Court in the case of the Uyghurs still detained at Guantanamo, the U.S. government took the position that their “continued presence at Guantanamo Bay is not unlawful detention, but rather the consequence of their lawful exclusion from the United States, under the constitutional exercise of authority by the political Branches, coupled with the unavailability of another country willing to accept them.”⁵⁴ This proposed framework has a clear discriminatory effect on the *de jure* and *de facto* stateless detainees at Guantanamo, who can conceivably spend the rest of their days in confinement, while the U.S. government insists they are not actually detained. These men must be treated equally to other men cleared for release at Guantanamo and provided with a satisfactory alternative to their present situation of indefinite detention.

Conclusion

The U.S. government maintains that there is no viable option but to hold the *de jure* and *de facto* stateless men detained at Guantanamo until another country is willing to take responsibility for them. However, this position contravenes well-established principles of international human rights law and effectively discriminates against stateless persons by creating an unjustified exception to their fundamental right to personal liberty, thereby deeming them disposable.⁵⁵ If their detention endures, the only humane course is for the United States to accept these men into its territory under a supervised release programme that takes into account both the public safety concerns of U.S. authorities

and the liberty interests of these individuals being held in unjustified detention. Such a release regime is not unfamiliar in the U.S. immigration context, where indefinite detention has been determined to be unconstitutional in almost every circumstance.⁵⁶

The decision to provide such a solution is long overdue. One of the hopes for the Obama administration was the humane resolution of these national security questions without the need for years of litigation over matters that are so clearly unjust. For the stateless detainees at Guantanamo and their advocates, this hope for change remains an unfulfilled promise.

¹ David C. Baluarte is a practitioner-in-residence at the International Human Rights Law Clinic at American University Washington College of Law.

² Authorization for Use of Military Force, Public Law 107-40, sections 1 - 2, 115 Stat. 224.

³ Military Order – Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism, 66 Federal Register 57833, 13 November 2001, available at: <http://www.law.cornell.edu/background/warpower/fr1665.pdf>.

⁴ *Ibid.* at sections 2(a), 7(b)(2).

⁵ See “Guantanamo Bay Timeline”, *Washington Post*, available at: <http://projects.washingtonpost.com/guantanamo/timeline/>.

⁶ *Rasul v. Bush*, 542 U.S. 466, 483-84 (2004).

⁷ Order Establishing Combatant Status Review Tribunal, 7 July 2004, (DOD Order), available at: <http://www.defenselink.mil/news/Jul2004/d20040707review.pdf>.

⁸ Implementation of Combatant Status Review Tribunal Procedures (29 July 2004), E-1 section B, available at: <http://www.defenselink.mil/news/Jul2004/d20040730comb.pdf>.

⁹ *Ibid.*, DOD Order at 1.

¹⁰ A February 2006 report analysing the records of 517 Guantanamo detainees’ CSRT proceedings found that: (1) 55% of the detainees were not determined to have committed any hostile acts against the United States or its coalition allies; (2) only 8% of the detainees were characterised as al Qaeda fighters – and of the remaining detainees, 40% had no definitive connection with al Qaeda at all and 18% had no definitive affiliation with either al Qaeda or the Taliban; (3) many of the detentions were justified by detainee affiliations with groups that were not on the Department of Homeland Security terrorist watch list, and only 8% were detained because they were deemed “fighters for” such organisations, while 30% were considered “members of,” and 60% were detained merely because they were “associated with” groups that the Government asserted were terrorist organisations;

(4) only 5% of the detainees were captured by United States forces, while 86% of the detainees were arrested by either Pakistani forces or the Northern Alliance and turned over to United States custody at a time when it offered large bounties for capture of suspected enemies; and (5) the population of persons deemed not to be enemy combatants were accused of more serious allegations than a great many persons deemed to be enemy combatants, raising questions about the consistency of the CSRT findings. See Denbeaux, M. and Denbeaux, J., "A Profile of 517 Detainees through Analysis of Department of Defense Data," *Seton Hall University School of Law*, February 2006.

¹¹ See *In re Guantanamo Detainee Cases*, 344 F.Supp.2d 174 (D.D.C. 2004).

¹² Detainee Treatment Act of 2005, section 1005(e), 42 U.S.C.A., section 2000dd (2005).

¹³ *Ibid*, at section 1005(e)(2).

¹⁴ *Hamdan v. Rumsfeld*, 548 U.S. 557, 572 (2006). In *Hamdan*, the Supreme Court struck down the military commissions established by the 2001 military order "Detention, Treatment, and Trial of Certain Non-Citizens in the War Against Terrorism".

¹⁵ Military Commissions Act, 10 U.S.C.A., section 7(a)(2) (2006).

¹⁶ *Ibid*, at section 950g.

¹⁷ *Boumediene v. Bush*, 128 S.Ct. 2229, 2269 (2008).

¹⁸ *Ibid*, at 2260, 2274.

¹⁹ Executive Order: Review and Disposition of Individuals Detained at the Guantanamo Bay Naval Base and Closure of Detention Facilities, 22 January 2009, sections 3 and 4, available at: http://www.whitehouse.gov/the_press_office/ClosureOfGuantanamoDetentionFacilities/.

²⁰ *Ibid*, at section 2(a).

²¹ See "Freed Uighurs Relishing Bermuda's Sun and Sand," *New York Times*, 14 June 2009, available at: <http://www.nytimes.com/aponline/2009/06/14/world/AP-CB-Bermuda-Guantanamo-Refugees.html>.

²² *Kiyemba v. Obama*, --- F.3d ---, 2009 WL 383618, *1 (D.C. Cir. 2009); see also Center for Constitutional Rights, *Abandoned at Guantanamo: Guantanamo Detainees Trapped by Inaction*, November 2008.

²³ Petitioner's Brief in *Kiyemba v. Obama*, 2009 WL 383618.

²⁴ See Center for Constitutional Rights, *Ten Profiles of Those Abandoned at Guantanamo in Need of Humanitarian Assistance*, November 2008, Profile of Adel Noori, available at: http://ccrjustice.org/files/10%20Profiles%20of%20GTMOs%20abandoned%20detainees_FINAL.pdf.

²⁵ *Ibid*, at Profile of Ali Mohammed.

²⁶ *Ibid*, at Profile of Abdul Sabour.

²⁷ See above, note 24.

²⁸ See above, note 25.

²⁹ "Albania Takes Guantanamo Uighurs," *BBC News*, 6 May 2006, available at: <http://news.bbc.co.uk/2/hi/americas/4979466.stm>.

³⁰ See above, note 24.

³¹ *Parhat v. Gates*, 532 F.3d 834 (D.C. Cir. 2008).

³² *Ibid*, at 843.

³³ *Ibid*, at 844-50.

³⁴ *Ibid*, at 851.

³⁵ *Kiyemba v. Bush*, 2008 WL 4898963, *1 (D.C. Cir. 2008) (Judge Rogers dissenting from the decision to stay the district judge's order of release pending appeal).

³⁶ Glaberson, W., “Judge Orders 17 Detainees at Guantanamo Freed,” *New York Times*, 7 October 2008, available at: <http://www.nytimes.com/2008/10/08/washington/08detain.html>.

³⁷ *Kiyemba v. Obama*, --- F.3d ---, 2009 WL 383618, *1 (D.C. Cir. 2009).

³⁸ *Ibid.*

³⁹ *Ibid.* at *6.

⁴⁰ The D.C. Circuit acknowledged that while the government suggests that they are ineligible for a visa to enter the United States because “they allegedly engaged in ‘terrorist activity’ within the meaning of 8 U.S.C. § 1182(a)(3)(B)(i)(I), which would mandate their removal under 8 U.S.C. § 1225(c)(1),” counsel for the detainees “object that the evidence is insufficient to back up the government’s claim,” and the court concluded that “[t]he dispute cannot be resolved at this stage.” See above, note 15.

⁴¹ Mears, B., “Chinese Muslim Detainees Take Case to Supreme Court,” *CNN*, 6 April 2009, available at: <http://edition.cnn.hu/2009/US/04/06/scotus.gitmo/index.html>.

⁴² “U.S. Opposes Uighurs’ Plea,” *SCOTUSBLOG*, 29 May 2009, available at: <http://www.scotusblog.com/wp/us-opposes-uighurs-plea/>.

⁴³ See above, note 21.

⁴⁴ See “Names of the Detained: Results,” *Washington Post*, Database, available at: <http://projects.washingtonpost.com/guantanamo/search/>.

⁴⁵ “Senate Rejects Funding to Close Guantanamo Prison,” *Washington Post*, 20 May 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/05/20/AR2009052001365.html?hpid=topnews>.

⁴⁶ Human Rights Watch, *Q&A: Resettlement of Guantanamo Bay Detainees*, February 2009, available at: <http://www.hrw.org/en/news/2009/02/23/q-resettlement-guantanamo-bay-detainees>.

⁴⁷ *Ibid.*

⁴⁸ Article 1 of the 1954 Convention relating to the Status of Stateless Persons defines a “stateless person” as “a person who is not considered as a national by any State under the operation of its law”.

⁴⁹ See above, note 24, Profile of Maher El Falesteny.

⁵⁰ *Ibid.*, Profile of Oybek Jamoldinovich Jabbarov.

⁵¹ Human Rights Watch, *Locked Up Alone*, June 2008, Profile of Ahmed Belbacha, available at: <http://www.hrw.org/en/node/62183/section/5>.

⁵² Inter-American Court for Human Rights, Proposed Amendments of the Naturalization Provisions of the Constitution of Costa Rica, Advisory Opinion OC-4/84 of January 19, 1984, Series A No. 4, para. 35, available at: http://www.corteidh.or.cr/docs/opiniones/seriea_04_ing.pdf.

⁵³ See Convention relating to the Status of Stateless Persons, Adopted on 28 September 1954 by a Conference of Plenipotentiaries convened by Economic and social Council resolution 526 A (XVII) of 26 April 1954, and Convention on the Reduction of Statelessness, Adopted on 30 August 1961 by a conference of plenipotentiaries which met in 1959 and reconvened in 1961 in pursuance of General Assembly resolution 896 (IX) of 4 December 1954.

⁵⁴ See above, note 42.

⁵⁵ See Principles and Best Practices on the Protection of Persons Deprived of Liberty in the Americas, Inter-American Commission on Human Rights, March 2008, Principle III, Personal Liberty, available at: <http://www.cidh.oas.org/Basicos/English/Basic21.a.Principles%20and%20Best%20Practices%20PDL.htm>.

⁵⁶ See *Zadvydas v. Davis*, 533 U.S. 678 (2001); see also *Clark v. Martinez*, 543 U.S. 371 (2005).