CHAPTER 7
SECRET DETENTIONS, SECRET RENDITIONS, AND FORCED DISAPPEARANCES DURING THE BUSH ADMINISTRATION’S “WAR” ON TERROR

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It is an honor to participate in this publication dedicated to Professor Cherif Bassiouni, a longtime friend1 and an internationally renowned scholar, who has tirelessly opposed international crime in any form and who has successfully engaged in significant, perhaps crucial, efforts on behalf of humankind to create a permanent international criminal court. As he noted recently, he was led to this role partly because of his suffering as a young victim of psychological torture during his “house arrest in . . . Cairo [with] the shutters . . . nailed, telephone and radio cut off, and food delivered once a day” and “no contact with the outside world” for seven months.2 Although not “disappeared” entirely, Cherif Bassiouni suffered some of the effects that one can experience when held in a secret detention center with no contact with the outside world for several months. This crime against humanity is known as “forced disappearance”—an admitted “program” of President Bush and the primary focus of this chapter.

After September 11, the Bush administration authorized roundups of hundreds of foreign persons within the United States. They were dis-

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1 I first met Cherif at a conference in the early 1970s, and we began to know each other better during a 1973 law of war–anti-terrorism symposium (with Richard Baxter) at Akron that had been arranged by the former Academic Director of the U.S. Army JAG School and Professor at Akron, Al Rakas. See Symposium: Terrorism in the Middle East, 7 AKRON L. REV. 373–421 (1974).

appeared for weeks or months in a gulag operated in the name of anti-terror that has apparently done little to provide real security but much to enrage a people who feel that they were really singled out because of their religious preferences and national origin in violation of basic human rights. This “program” was much like the shameful incarceration of loyal Americans of Japanese ancestry in concentration camps on the West Coast during World War II. Meanwhile real German prisoners of war were released on parole in Texas, and real German saboteurs had landed in Florida and New York, but no German or Italian Americans were detained without trial because of their racial heritage or alleged collective disloyalty.

After September 11, the executive branch refused to release the names and whereabouts of thousands of persons detained as so-called “special interest” INS detainees, as material witnesses, and as persons detained without trial as alleged security threats in the United States, Guantanamo Bay, Cuba, and elsewhere. In an essay concerning immi-


5 See, e.g., Ex parte Quirin, 317 U.S. 1 (1942).

