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SUPREME COURT OF THE UNITED STATES

Nos. 03–334 and 03–343

SHAFIQ RASUL, ET AL., PETITIONERS
03–334 *v.*
GEORGE W. BUSH, PRESIDENT OF THE UNITED STATES, ET AL.

FAWZI KHALID ABDULLAH FAHAD AL ODAH, ET AL., PETITIONERS
03–343 *v.*
UNITED STATES ET AL.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

[June 28, 2004]

JUSTICE STEVENS delivered the opinion of the Court.

These two cases present the narrow but important question whether United States courts lack jurisdiction to consider challenges to the legality of the detention of foreign nationals captured abroad in connection with hostilities and incarcerated at the Guantanamo Bay Naval Base, Cuba.

I

On September 11, 2001, agents of the al Qaeda terrorist network hijacked four commercial airliners and used them as missiles to attack American targets. While one of the four attacks was foiled by the heroism of the plane's passengers, the other three killed approximately 3,000 inno-

cent civilians, destroyed hundreds of millions of dollars of property, and severely damaged the U. S. economy. In response to the attacks, Congress passed a joint resolution authorizing the President 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." Authorization for Use of Military Force, Pub. L. 107–40, §§1–2, 115 Stat. 224. Acting pursuant to that authorization, the President sent U. S. Armed Forces into Afghanistan to wage a military campaign against al Qaeda and the Taliban regime that had supported it.

Petitioners in these cases are 2 Australian citizens and 12 Kuwaiti citizens who were captured abroad during hostilities between the United States and the Taliban.[1] Since early 2002, the U. S. military has held them—along with, according to the Government's estimate, approximately 640 other non-Americans captured abroad—at the Naval Base at Guantanamo Bay. Brief for United States 6. The United States occupies the Base, which comprises 45 square miles of land and water along the southeast coast of Cuba, pursuant to a 1903 Lease Agreement executed with the newly independent Republic of Cuba in the aftermath of the Spanish-American War. Under the Agreement, "the United States recognizes the continuance of the ultimate sovereignty of the Republic of Cuba over the [leased areas]," while "the Republic of Cuba consents that during the period of the occupation by the United States . . . the United States shall exercise complete jurisdiction and control over and within said areas."[2] In 1934,

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[1] When we granted certiorari, the petitioners also included two British citizens, Shafiq Rasul and Asif Iqbal. These petitioners have since been released from custody.

[2] Lease of Lands for Coaling and Naval Stations, Feb. 23, 1903, U. S.-Cuba, Art. III, T. S. No. 418 (hereinafter 1903 Lease Agreement). A

the parties entered into a treaty providing that, absent an agreement to modify or abrogate the lease, the lease would remain in effect "[s]o long as the United States of America shall not abandon the . . . naval station of Guantanamo."[3]

In 2002, petitioners, through relatives acting as their next friends, filed various actions in the U. S. District Court for the District of Columbia challenging the legality of their detention at the Base. All alleged that none of the petitioners has ever been a combatant against the United States or has ever engaged in any terrorist acts.[4] They also alleged that none has been charged with any wrongdoing, permitted to consult with counsel, or provided access to the courts or any other tribunal. App. 29, 77, 108.[5]

The two Australians, Mamdouh Habib and David Hicks, each filed a petition for writ of habeas corpus, seeking release from custody, access to counsel, freedom from interrogations, and other relief. *Id.,* at 98–99, 124–126.

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supplemental lease agreement, executed in July 1903, obligates the United States to pay an annual rent in the amount of "two thousand dollars, in gold coin of the United States" and to maintain "permanent fences" around the base. Lease of Certain Areas for Naval or Coaling Stations, July 2, 1903, U. S.-Cuba, Arts. I–II, T. S. No. 426.

[3] Treaty Defining Relations with Cuba, May 29, 1934, U. S.-Cuba, Art. III, 48 Stat. 1683, T. S. No. 866 (hereinafter 1934 Treaty).

[4] Relatives of the Kuwaiti detainees allege that the detainees were taken captive "by local villagers seeking promised bounties or other financial rewards" while they were providing humanitarian aid in Afghanistan and Pakistan, and were subsequently turned over to U. S. custody. App. 24–25. The Australian David Hicks was allegedly captured in Afghanistan by the Northern Alliance, a coalition of Afghan groups opposed to the Taliban, before he was turned over to the United States. *Id.,* at 84. The Australian Mamdouh Habib was allegedly arrested in Pakistan by Pakistani authorities and turned over to Egyptian authorities, who in turn transferred him to U. S. custody. *Id.,* at 110–111.

[5] David Hicks has since been permitted to meet with counsel. Brief for United States 9.

Fawzi Khalid Abdullah Fahad Al Odah and the 11 other Kuwaiti detainees filed a complaint seeking to be informed of the charges against them, to be allowed to meet with their families and with counsel, and to have access to the courts or some other impartial tribunal. *Id.,* at 34. They claimed that denial of these rights violates the Constitution, international law, and treaties of the United States. Invoking the court's jurisdiction under 28 U. S. C. §§1331 and 1350, among other statutory bases, they asserted causes of action under the Administrative Procedure Act, 5 U. S. C. §§555, 702, 706; the Alien Tort Statute, 28 U. S. C. §1350; and the general federal habeas corpus statute, §§2241–2243. App. 19.

Construing all three actions as petitions for writs of habeas corpus, the District Court dismissed them for want of jurisdiction. The court held, in reliance on our opinion in *Johnson* v. *Eisentrager,* 339 U. S. 763 (1950), that "aliens detained outside the sovereign territory of the United States [may not] invok[e] a petition for a writ of habeas corpus." 215 F. Supp. 2d 55, 68 (DC 2002). The Court of Appeals affirmed. Reading *Eisentrager* to hold that "'the privilege of litigation' does not extend to aliens in military custody who have no presence in 'any territory over which the United States is sovereign,'" 321 F. 3d 1134, 1144 (CADC 2003) (quoting *Eisentrager,* 339 U. S., at 777–778), it held that the District Court lacked jurisdiction over petitioners' habeas actions, as well as their remaining federal statutory claims that do not sound in habeas. We granted certiorari, 540 U. S. 1003 (2003), and now reverse.

II

Congress has granted federal district courts, "within their respective jurisdictions," the authority to hear applications for habeas corpus by any person who claims to be held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U. S. C. §§2241(a), (c)(3).

The statute traces its ancestry to the first grant of federal court jurisdiction: Section 14 of the Judiciary Act of 1789 authorized federal courts to issue the writ of habeas corpus to prisoners "in custody, under or by colour of the authority of the United States, or committed for trial before some court of the same." Act of Sept. 24, 1789, ch. 20, §14, 1 Stat. 82. In 1867, Congress extended the protections of the writ to "all cases where any person may be restrained of his or her liberty in violation of the constitution, or of any treaty or law of the United States." Act of Feb. 5, 1867, ch. 28, 14 Stat. 385. See *Felker* v. *Turpin,* 518 U. S. 651, 659–660 (1996).

Habeas corpus is, however, "a writ antecedent to statute, . . . throwing its root deep into the genius of our common law." *Williams* v. *Kaiser,* 323 U. S. 471, 484, n. 2 (1945) (internal quotation marks omitted). The writ appeared in English law several centuries ago, became "an integral part of our common-law heritage" by the time the Colonies achieved independence, *Preiser* v. *Rodriguez,* 411 U. S. 475, 485 (1973), and received explicit recognition in the Constitution, which forbids suspension of "[t]he Privilege of the Writ of Habeas Corpus . . . unless when in Cases of Rebellion or Invasion the public Safety may require it," Art. I, §9, cl. 2.

As it has evolved over the past two centuries, the habeas statute clearly has expanded habeas corpus "beyond the limits that obtained during the 17th and 18th centuries." *Swain* v. *Pressley,* 430 U. S. 372, 380, n. 13 (1977). But "[a]t its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest." *INS* v. *St. Cyr,* 533 U. S. 289, 301 (2001). See also *Brown* v. *Allen,* 344 U. S. 443, 533 (1953) (Jackson, J., concurring in result) ("The historic purpose of the writ has been to relieve detention by executive authorities without judicial trial"). As Justice Jackson

wrote in an opinion respecting the availability of habeas corpus to aliens held in U. S. custody:

> "Executive imprisonment has been considered oppressive and lawless since John, at Runnymede, pledged that no free man should be imprisoned, dispossessed, outlawed, or exiled save by the judgment of his peers or by the law of the land. The judges of England developed the writ of habeas corpus largely to preserve these immunities from executive restraint." *Shaughnessy* v. *United States ex rel. Mezei,* 345 U. S. 206, 218–219 (1953) (dissenting opinion).

Consistent with the historic purpose of the writ, this Court has recognized the federal courts' power to review applications for habeas relief in a wide variety of cases involving Executive detention, in wartime as well as in times of peace. The Court has, for example, entertained the habeas petitions of an American citizen who plotted an attack on military installations during the Civil War, *Ex parte Milligan,* 4 Wall. 2 (1866), and of admitted enemy aliens convicted of war crimes during a declared war and held in the United States, *Ex parte Quirin,* 317 U. S. 1 (1942), and its insular possessions, *In re Yamashita,* 327 U. S. 1 (1946).

The question now before us is whether the habeas statute confers a right to judicial review of the legality of Executive detention of aliens in a territory over which the United States exercises plenary and exclusive jurisdiction, but not "ultimate sovereignty."[6]

III

Respondents' primary submission is that the answer to the jurisdictional question is controlled by our decision in *Eisentrager*. In that case, we held that a Federal District

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[6] 1903 Lease Agreement, Art. III.

Court lacked authority to issue a writ of habeas corpus to 21 German citizens who had been captured by U. S. forces in China, tried and convicted of war crimes by an American military commission headquartered in Nanking, and incarcerated in the Landsberg Prison in occupied Germany. The Court of Appeals in *Eisentrager* had found jurisdiction, reasoning that "any person who is deprived of his liberty by officials of the United States, acting under purported authority of that Government, and who can show that his confinement is in violation of a prohibition of the Constitution, has a right to the writ." *Eisentrager* v. *Forrestal,* 174 F. 2d 961, 963 (CADC 1949). In reversing that determination, this Court summarized the six critical facts in the case:

> "We are here confronted with a decision whose basic premise is that these prisoners are entitled, as a constitutional right, to sue in some court of the United States for a writ of *habeas corpus*. To support that assumption we must hold that a prisoner of our military authorities is constitutionally entitled to the writ, even though he (a) is an enemy alien; (b) has never been or resided in the United States; (c) was captured outside of our territory and there held in military custody as a prisoner of war; (d) was tried and convicted by a Military Commission sitting outside the United States; (e) for offenses against laws of war committed outside the United States; (f) and is at all times imprisoned outside the United States." 339 U. S., at 777.

On this set of facts, the Court concluded, "no right to the writ of *habeas corpus* appears." *Id.,* at 781.

Petitioners in these cases differ from the *Eisentrager* detainees in important respects: They are not nationals of countries at war with the United States, and they deny that they have engaged in or plotted acts of aggression

against the United States; they have never been afforded access to any tribunal, much less charged with and convicted of wrongdoing; and for more than two years they have been imprisoned in territory over which the United States exercises exclusive jurisdiction and control.

Not only are petitioners differently situated from the *Eisentrager* detainees, but the Court in *Eisentrager* made quite clear that all six of the facts critical to its disposition were relevant only to the question of the prisoners' *constitutional* entitlement to habeas corpus. *Id.*, at 777. The Court had far less to say on the question of the petitioners' *statutory* entitlement to habeas review. Its only statement on the subject was a passing reference to the absence of statutory authorization: "Nothing in the text of the Constitution extends such a right, nor does anything in our statutes." *Id.,* at 768.

Reference to the historical context in which *Eisentrager* was decided explains why the opinion devoted so little attention to question of statutory jurisdiction. In 1948, just two months after the *Eisentrager* petitioners filed their petition for habeas corpus in the U. S. District Court for the District of Columbia, this Court issued its decision in *Ahrens* v. *Clark,* 335 U. S. 188, a case concerning the application of the habeas statute to the petitions of 120 Germans who were then being detained at Ellis Island, New York, for deportation to Germany. The *Ahrens* detainees had also filed their petitions in the U. S. District Court for the District of Columbia, naming the Attorney General as the respondent. Reading the phrase "within their respective jurisdictions" as used in the habeas statute to require the petitioners' presence within the district court's territorial jurisdiction, the Court held that the District of Columbia court lacked jurisdiction to entertain the detainees' claims. *Id.,* at 192. *Ahrens* expressly reserved the question "of what process, if any, a person confined in an area not subject to the jurisdiction of any district court may employ to assert

federal rights." *Id.,* 192, n. 4. But as the dissent noted, if the presence of the petitioner in the territorial jurisdiction of a federal district court were truly a jurisdictional requirement, there could be only one response to that question. *Id.,* at 209 (opinion of Rutledge, J.).[7]

When the District Court for the District of Columbia reviewed the German prisoners' habeas application in *Eisentrager*, it thus dismissed their action on the authority of *Ahrens*. See *Eisentrager,* 339 U. S., at 767, 790. Although the Court of Appeals reversed the District Court, it implicitly conceded that the District Court lacked jurisdiction under the habeas statute as it had been interpreted in *Ahrens*. The Court of Appeals instead held that petitioners had a constitutional right to habeas corpus secured by the Suspension Clause, U. S. Const., Art. I, §9, cl. 2, reasoning that "if a person has a right to a writ of habeas corpus, he cannot be deprived of the privilege by an omission in a federal jurisdictional statute." *Eisentrager* v. *Forrestal,* 174 F. 2d, at 965. In essence, the Court of Appeals concluded that the habeas statute, as construed in *Ahrens*, had created an unconstitutional gap that had to be filled by reference to "fundamentals." 174 F. 2d, at 963. In its review of that decision, this Court, like the Court of Appeals, proceeded from the premise that "nothing in our statutes" conferred federal-court jurisdiction, and accordingly evaluated the Court of Appeals' resort to "fundamentals" on its own terms. 339 U. S., at 768.[8]

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[7] Justice Rutledge wrote:

"[I]f absence of the body detained from the territorial jurisdiction of the court having jurisdiction of the jailer creates a total and irremediable void in the court's capacity to act, . . . then it is hard to see how that gap can be filled by such extraneous considerations as whether there is no other court in the place of detention from which remedy might be had . . . ." 335 U. S., at 209.

[8] Although JUSTICE SCALIA disputes the basis for the Court of Appeals' holding, *post,* at 4, what is most pertinent for present purposes is that

Because subsequent decisions of this Court have filled the statutory gap that had occasioned *Eisentrager*'s resort to "fundamentals," persons detained outside the territorial jurisdiction of any federal district court no longer need rely on the Constitution as the source of their right to federal habeas review. In *Braden* v. *30th Judicial Circuit Court of Ky.,* 410 U. S. 484, 495 (1973), this Court held, contrary to *Ahrens*, that the prisoner's presence within the territorial jurisdiction of the district court is not "an invariable prerequisite" to the exercise of district court jurisdiction under the federal habeas statute. Rather, because "the writ of habeas corpus does not act upon the prisoner who seeks relief, but upon the person who holds him in what is alleged to be unlawful custody," a district court acts "within [its] respective jurisdiction" within the meaning of §2241 as long as "the custodian can be reached by service of process." 410 U. S., at 494–495. *Braden* reasoned that its departure from the rule of *Ahrens* was warranted in light of developments that "had a profound impact on the continuing vitality of that decision." 410 U. S., at 497. These developments included, notably, decisions of this Court in cases involving habeas petitioners "confined overseas (and thus outside the territory of any district court)," in which the Court "held, if only implicitly, that the petitioners' absence from the district does not present a jurisdictional obstacle to the consideration of the claim." *Id.,* at 498 (citing *Burns* v. *Wilson,* 346 U. S.

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this Court clearly understood the Court of Appeals' decision to rest on constitutional and not statutory grounds. *Eisentrager,* 339 U. S., at 767 ("[The Court of Appeals] concluded that any person, including an enemy alien, deprived of his liberty anywhere under any purported authority of the United States is entitled to the writ if he can show that extension to his case of any constitutional rights or limitations would show his imprisonment illegal; [and] that, *although no statutory jurisdiction of such cases is given*, courts must be held to possess it as part of the judicial power of the United States . . ." (emphasis added)).

137 (1953), rehearing denied, 346 U. S. 844, 851–852 (opinion of Frankfurter, J.); *United States ex rel. Toth* v. *Quarles,* 350 U. S. 11 (1955); *Hirota* v. *MacArthur,* 338 U. S. 197, 199 (1948) (Douglas, J., concurring)). *Braden* thus established that *Ahrens* can no longer be viewed as establishing "an inflexible jurisdictional rule," and is strictly relevant only to the question of the appropriate forum, not to whether the claim can be heard at all. 410 U. S., at 499–500.

Because *Braden* overruled the statutory predicate to *Eisentrager*'s holding, *Eisentrager* plainly does not preclude the exercise of §2241 jurisdiction over petitioners' claims.[9]

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[9]The dissent argues that *Braden* did not overrule *Ahrens*' jurisdictional holding, but simply distinguished it. *Post,* at 7. Of course, *Braden* itself indicated otherwise, 410 U. S., at 495–500, and a long line of judicial and scholarly interpretations, beginning with then-JUSTICE REHNQUIST's dissenting opinion, have so understood the decision. See, *e.g., id.,* at 502 ("Today the Court overrules *Ahrens*"); *Moore* v. *Olson*, 368 F. 3d 757, 758 (CA7 2004) ("[A]fter *Braden* . . . , which overruled *Ahrens*, the location of a collateral attack is best understood as a matter of venue"); *Armentero* v. *INS*, 340 F. 3d 1058, 1063 (CA9 2003) ("[T]he Court in *[Braden]* declared that *Ahrens* was overruled" (citations omitted)); *Henderson* v. *INS,* 157 F. 3d 106, 126, n. 20 (CA2 1998) ("On the issue of territorial jurisdiction, *Ahrens* was subsequently overruled by *Braden*"); *Chatman-Bey* v. *Thornburgh,* 864 F. 2d 804, 811 (CADC 1988) (en banc) ("[I]n *Braden*, the Court cut back substantially on *Ahrens* (and indeed overruled its territorially-based jurisdictional holding)"). See also, *e.g., Patterson* v. *McLean Credit Union,* 485 U. S. 617, 618 (1988) *(per curiam);* Eskridge, Overruling Statutory Precedents, 76 Geo. L. J. 1361, App. A (1988).

The dissent also disingenuously contends that the continuing vitality of *Ahrens*' jurisdictional holding is irrelevant to the question presented in these cases, "inasmuch as *Ahrens* did not pass upon any of the statutory issues decided by *Eisentrager*." *Post,* at 7. But what JUSTICE SCALIA describes as *Eisentrager*'s statutory holding—"that, unaided by the canon of constitutional avoidance, the statute did not confer jurisdiction over an alien detained outside the territorial jurisdiction of the courts of the United States," *post,* at 6—is little more than the rule of

IV

Putting *Eisentrager* and *Ahrens* to one side, respondents contend that we can discern a limit on §2241 through application of the "longstanding principle of American law" that congressional legislation is presumed not to have extraterritorial application unless such intent is clearly manifested. *EEOC* v. *Arabian American Oil Co.,* 499 U. S. 244, 248 (1991). Whatever traction the presumption against extraterritoriality might have in other contexts, it certainly has no application to the operation of the habeas statute with respect to persons detained within "the territorial jurisdiction" of the United States. *Foley Bros., Inc.* v. *Filardo,* 336 U. S. 281, 285 (1949). By the express terms of its agreements with Cuba, the United States exercises "complete jurisdiction and control" over the Guantanamo Bay Naval Base, and may continue to exercise such control permanently if it so chooses. 1903 Lease Agreement, Art. III; 1934 Treaty, Art. III. Respondents themselves concede that the habeas statute would create federal-court jurisdiction over the claims of an American citizen held at the base. Tr. of Oral Arg. 27. Considering that the statute draws no distinction between Americans and aliens held in federal custody, there is little reason to think that Congress intended the geographical coverage of the statute to vary depending on the detainee's citizenship.[10] Aliens held at the

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Ahrens cloaked in the garb of *Eisentrager*'s facts. To contend plausibly that this holding survived *Braden*, JUSTICE SCALIA at a minimum must find a textual basis for the rule other than the phrase "within their respective jurisdictions"—a phrase which, after *Braden*, can no longer be read to require the habeas petitioner's physical presence within the territorial jurisdiction of a federal district court. Two references to the district of confinement in provisions relating to recordkeeping and pleading requirements in proceedings before circuit judges hardly suffice in that regard. See *post,* at 2 (citing 28 U. S. C. §§2241(a), 2242).

[10] JUSTICE SCALIA appears to agree that neither the plain text of the statute nor his interpretation of that text provides a basis for treating

base, no less than American citizens, are entitled to invoke the federal courts' authority under §2241.

Application of the habeas statute to persons detained at the base is consistent with the historical reach of the writ of habeas corpus. At common law, courts exercised habeas jurisdiction over the claims of aliens detained within sovereign territory of the realm,[11] as well as the claims of persons detained in the so-called "exempt jurisdictions," where ordinary writs did not run,[12] and all other domin-

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American citizens differently from aliens. *Post,* at 10. But resisting the practical consequences of his position, he suggests that he might nevertheless recognize an "atextual exception" to his statutory rule for citizens held beyond the territorial jurisdiction of the federal district courts. *Ibid.*

[11] See, *e.g., King* v. *Schiever,* 2 Burr. 765, 97 Eng. Rep. 551 (K. B. 1759) (reviewing the habeas petition of a neutral alien deemed a prisoner of war because he was captured aboard an enemy French privateer during a war between England and France); *Sommersett* v. *Stewart,* 20 How. St. Tr. 1, 79–82 (K. B. 1772) (releasing on habeas an African slave purchased in Virginia and detained on a ship docked in England and bound for Jamaica); *Case of the Hottentot Venus,* 13 East 195, 104 Eng. Rep. 344 (K. B. 1810) (reviewing the habeas petition of a "native of *South Africa*" allegedly held in private custody).

American courts followed a similar practice in the early years of the Republic. See, *e.g., United States* v. *Villato,* 2 Dall. 370 (CC Pa. 1797) (granting habeas relief to Spanish-born prisoner charged with treason on the ground that he had never become a citizen of the United States); *Ex parte D'Olivera,* 7 F. Cas. 853 (No, 3,967) (CC Mass. 1813) (Story, J., on circuit) (ordering the release of Portuguese sailors arrested for deserting their ship); *Wilson* v. *Izard,* 30 F. Cas. 131 (No. 17,810) (CC NY 1815) (Livingston, J., on circuit) (reviewing the habeas petition of enlistees who claimed that they were entitled to discharge because of their status as enemy aliens).

[12] See, *e.g., Bourn's Case,* Cro. Jac. 543, 79 Eng. Rep. 465 (K. B. 1619) (writ issued to the Cinque-Ports town of Dover); *Alder* v. *Puisy,* 1 Freeman 12, 89 Eng. Rep. 10 (K. B. 1671) (same); *Jobson's Case,* Latch 160, 82 Eng. Rep. 325 (K. B. 1626) (entertaining the habeas petition of a prisoner held in the County Palatine of Durham). See also 3 W. Blackstone, Commentaries on the Laws of England 79 (1769) (hereinafter Blackstone) ("[A]ll prerogative writs (as those of *habeas corpus*,

ions under the sovereign's control.[13] As Lord Mansfield wrote in 1759, even if a territory was "no part of the realm," there was "no doubt" as to the court's power to issue writs of habeas corpus if the territory was "under the subjection of the Crown." *King* v. *Cowle,* 2 Burr. 834, 854–855, 97 Eng. Rep. 587, 598–599 (K. B.). Later cases confirmed that the reach of the writ depended not on formal notions of territorial sovereignty, but rather on the practical question of "the exact extent and nature of the jurisdiction or dominion exercised in fact by the Crown." *Ex parte Mwenya,* [1960] 1 Q. B. 241, 303 (C. A.) (Lord Evershed, M. R.).[14]

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prohibition, *certiorari*, and *mandamus*) may issue . . . to all these exempt jurisdictions; because the privilege, that the king's writ runs not, must be intended between party and party, for there can be no such privilege against the king" (footnotes omitted)); R. Sharpe, Law of Habeas Corpus 188–189 (2d ed. 1989) (describing the "extraordinary territorial ambit" of the writ at common law).

[13] See, *e.g., King* v. *Overton,* 1 Sid. 387, 82 Eng. Rep. 1173 (K. B. 1668) (writ issued to Isle of Jersey); *King* v. *Salmon,* 2 Keble 450, 84 Eng. Rep. 282 (K. B. 1669) (same). See also 3 Blackstone 131 (habeas corpus "run[s] into all parts of the king's dominions: for the king is at all times [e]ntitled to have an account, why the liberty of any of his subjects is restrained, wherever that restraint may be inflicted" (footnotes omitted)); M. Hale, History of the Common Law 120–121 (C. Gray ed. 1971) (writ of habeas corpus runs to the Channel Islands, even though "they are not Parcel of the Realm of England").

[14] *Ex parte Mwenya* held that the writ ran to a territory described as a "foreign country within which [the Crown] ha[d] power and jurisdiction by treaty, grant, usage, sufferance, and other lawful means." *Ex parte Mwenya,* 1 Q. B., at 265 (internal quotation marks omitted). See also *King* v. *The Earl of Crewe ex parte Sekgome,* [1910] 2 K. B. 576, 606 (C. A.) (Williams, L. J.) (concluding that the writ would run to such a territory); *id.,* at 618 (Farwell, L. J.) (same). As Lord Justice Sellers explained:

"Lord Mansfield gave the writ the greatest breadth of application which in the then circumstances could well be conceived. . . . 'Subjection' is fully appropriate to the powers exercised or exercisable by this country irrespective of territorial sovereignty or dominion, and it

In the end, the answer to the question presented is clear. Petitioners contend that they are being held in federal custody in violation of the laws of the United States.[15] No party questions the District Court's jurisdiction over petitioners' custodians. Cf. *Braden,* 410 U. S., at 495. Section 2241, by its terms, requires nothing more. We therefore hold that §2241 confers on the District Court jurisdiction to hear petitioners' habeas corpus challenges to the legality of their detention at the Guantanamo Bay

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embraces in outlook the power of the Crown in the place concerned.'" 1 Q. B., at 310.

JUSTICE SCALIA cites *In re Ning Yi-Ching*, 56 T. L. R. 3 (Vacation Ct. 1939), for the broad proposition that habeas corpus has been categorically unavailable to aliens held outside sovereign territory. *Post,* at 18. *Ex parte Mwenya*, however, casts considerable doubt on this narrow view of the territorial reach of the writ. See *Ex parte Mwenya,* 1 Q. B., at 295 (Lord Evershed, M. R.) (noting that *In re Ning Yi-Ching* relied on Lord Justice Kennedy's opinion in *Ex parte Sekgome* concerning the territorial reach of the writ, despite the opinions of two members of the court who "took a different view upon this matter"). And *In re Ning Yi-Ching* itself made quite clear that "the remedy of *habeas corpus* was not confined to British subjects," but would extend to "any person . . . detained" within reach of the writ. 56 T. L. R., at 5 (citing *Ex parte Sekgome,* 2 K. B., at 620 (Kennedy, L. J.)). Moreover, the result in that case can be explained by the peculiar nature of British control over the area where the petitioners, four Chinese nationals accused of various criminal offenses, were being held pending transfer to the local district court. Although the treaties governing the British Concession at Tientsin did confer on Britain "certain rights of administration and control," "the right to administer justice" to Chinese nationals was not among them. 56 T. L. R., at 4–6.

[15] Petitioners' allegations—that, although they have engaged neither in combat nor in acts of terrorism against the United States, they have been held in Executive detention for more than two years in territory subject to the long-term, exclusive jurisdiction and control of the United States, without access to counsel and without being charged with any wrongdoing—unquestionably describe "custody in violation of the Constitution or laws or treaties of the United States." 28 U. S. C. §2241(c)(3). Cf. *United States* v. *Verdugo-Urquidez,* 494 U. S. 259, 277–278 (1990) (KENNEDY, J., concurring), and cases cited therein.

Naval Base.

V

In addition to invoking the District Court's jurisdiction under §2241, the *Al Odah* petitioners' complaint invoked the court's jurisdiction under 28 U. S. C. §1331, the federal question statute, as well as §1350, the Alien Tort Statute. The Court of Appeals, again relying on *Eisentrager*, held that the District Court correctly dismissed the claims founded on §1331 and §1350 for lack of jurisdiction, even to the extent that these claims "deal only with conditions of confinement and do not sound in habeas," because petitioners lack the "privilege of litigation" in U. S. courts. 321 F. 3d, at 1144 (internal quotation marks omitted). Specifically, the court held that because petitioners' §1331 and §1350 claims "necessarily rest on alleged violations of the same category of laws listed in the habeas corpus statute," they, like claims founded on the habeas statute itself, must be "beyond the jurisdiction of the federal courts." *Id.*, at 1144–1145.

As explained above, *Eisentrager* itself erects no bar to the exercise of federal court jurisdiction over the petitioners' habeas corpus claims. It therefore certainly does not bar the exercise of federal-court jurisdiction over claims that merely implicate the "same category of laws listed in the habeas corpus statute." But in any event, nothing in *Eisentrager* or in any of our other cases categorically excludes aliens detained in military custody outside the United States from the "'privilege of litigation'" in U. S. courts. 321 F. 3d, at 1139. The courts of the United States have traditionally been open to nonresident aliens. Cf. *Disconto Gesellschaft* v. *Umbreit,* 208 U. S. 570, 578 (1908) ("Alien citizens, by the policy and practice of the courts of this country, are ordinarily permitted to resort to the courts for the redress of wrongs and the protection of their rights"). And indeed, 28 U. S. C. §1350 explicitly

confers the privilege of suing for an actionable "tort . . . committed in violation of the law of nations or a treaty of the United States" on aliens alone. The fact that petitioners in these cases are being held in military custody is immaterial to the question of the District Court's jurisdiction over their nonhabeas statutory claims.

VI

Whether and what further proceedings may become necessary after respondents make their response to the merits of petitioners' claims are matters that we need not address now. What is presently at stake is only whether the federal courts have jurisdiction to determine the legality of the Executive's potentially indefinite detention of individuals who claim to be wholly innocent of wrongdoing. Answering that question in the affirmative, we reverse the judgment of the Court of Appeals and remand for the District Court to consider in the first instance the merits of petitioners' claims.

It is so ordered.