

PUBLIC

AI Index: AMR 51/112/2008

08 October 2008

UA 278/08

Legal concern

USA

17 Uighur detainees held at Guantánamo

In a landmark ruling on 7 October 2008, Judge Ricardo Urbina of the US District Court for the District of Columbia (DC) ordered the government to release into the USA the 17 Uighur detainees still held in the US Naval Base in Guantánamo Bay, Cuba. The government had earlier conceded that the 17 men are not “enemy combatants”, the label it had attached to them for almost seven years to justify their indefinite detention without charge or trial.

The government is appealing the order, arguing that it “directly conflicts with the basic principle that the decision whether to admit an alien into the United States rests exclusively with the Executive”. The administration has claimed the authority to continue to detain at Guantánamo those it no longer considers “enemy combatants”, but who cannot be returned to their countries, under the executive’s “necessary power to wind up wartime detentions in an orderly fashion”. Judge Urbina rejected this, saying that whatever authority the government had to detain the men had “ceased”.

The Uighurs cannot be returned to their native China because they would face a serious risk of torture or execution there. The US government argues that it should be allowed to keep them at Guantánamo until it finds a country willing to accept them, however long that may take. It says that, despite “extensive diplomatic efforts”, it has been unable to find any other country willing to take them. It is now more than four years since then Secretary of State Colin Powell said that the USA would not return the Uighurs to China and was “trying to find places for them” in “all candidate countries”. In its appeal just filed, the government asserts that “diplomatic negotiations continue in an effort to find an appropriate country to which the detainees can be sent”, adding that Judge Urbina’s order “short-circuits that diplomatic process”.

In his order of 7 October 2008, Judge Urbina ordered that the 17 detainees be brought to his court in Washington, DC, at 10am on 10 October. The Uighurs would then be released, with the assistance of members of the local Uighur community, religious groups and refugee settlement agencies who have offered their support to help the released detainees adjust to their lives outside Guantánamo. Judge Urbina also set a hearing for 16 October to determine the conditions of the Uighurs’ release, and ordered that an official from the US Department of Homeland Security be present at that hearing.

After the hearing, the US Department of Justice announced that it was filing an emergency motion for a stay of Judge Urbina’s order pending an appeal to the Court of Appeals for the DC Circuit. The government indicates in its petition to the Court of Appeals that it will go to the US Supreme Court, “if necessary”. The government’s decision to appeal is the latest illustration of the pursuit of unfettered executive power that has characterized the USA’s conduct in the “war on terror” and led to systematic human rights violations, including arbitrary detention and torture and other ill-treatment.

Amnesty International believes that the government should comply with Judge Urbina’s order, drop its appeals, bring the Uighur detainees into the USA, and work to find lawful, fair, safe and durable solutions in all their cases.

The 17 Uighur detainees are: Huzaifa Parhat, Abdul Semet, Jalal Jaladin, Khalid Ali, Sabir Osman, Abdul Sabour, Abdul Nasser, Hammad Memet, Edham Mamet, Arkin Mahmud, Bahtiyar Mahnut, Ahmad Tourson, Abdur Razakah, Anvar Hassan, Dawut Abdurehim, Abdul Ghappar Abdul Rahman and Adel Noori. Most of them were taken into custody in Pakistan in late 2001 having fled there from Afghanistan after the Uighur camp to which they had fled from China was bombed by US forces. They are alleged to have been sold by

Pakistani forces to the USA for a substantial bounty. The detainees were transferred to Guantánamo in 2002. See *USA: Justice Years Overdue: Federal court hearing for Uighur detainees in Guantánamo*, 7 October 2008, <http://www.amnesty.org/en/library/info/AMR51/110/2008/en>.

BACKGROUND INFORMATION

Amnesty International continues to call for all the detainees at Guantánamo to be brought to full and fair trials or released with full protections against further human rights abuses. There are approximately 255 detainees still held in the base, including the 17 Uighurs. Of the more than 500 detainees released from Guantánamo since detention operations began there in January 2002, none has been released by judicial order, all by executive discretion. Except in the case of Yaser Hamdi, who was transferred from Guantánamo to military custody in South Carolina in April 2002 after it was discovered that he had US citizenship, no Guantánamo detainee has been transferred to the US mainland.

The mainly Muslim Uighur community is the majority ethnic group in the Xinjiang Uighur Autonomous Region in the northwest of China. (See UA 356/03, AMR 51/147/2003, 4 December 2003 <http://www.amnesty.org/en/library/info/AMR51/147/2003/en>.)

RECOMMENDED ACTION: Please send appeals to arrive as quickly as possible, in English or your own language, in your own words:

- welcoming District Court Judge Ricardo Urbina's order to the government to release the 17 Uighur detainees held in Guantánamo without charge or trial since 2002;
- expressing regret and concern that the government has elected to appeal this ruling;
- welcoming that the US government has said that it will not return the Uighurs to China, and noting that it has been unable, despite years of "extensive diplomatic efforts", to find a country willing to accept them;
- noting that the USA does not consider the Uighurs to be "enemy combatants";
- welcoming the local community support in the USA that has been pledged to help the Uighurs adjust to life outside Guantánamo;
- calling on the US government, in the name of humanitarianism and justice, to comply with Judge Urbina's order to release the Uighur detainees into the USA, to drop all appeals against his order, and to work to ensure fair, safe and durable outcomes for these men.

APPEALS TO:

President George W. Bush, The White House, 1600 Pennsylvania Avenue NW, Washington, DC 20500, USA

Fax: +1 202 456 2461

Email: president@whitehouse.gov

Salutation: Dear Mr President

The Honorable Michael B. Mukasey, Attorney General

US Department of Justice, 950 Pennsylvania Avenue NW, Washington, DC 20530-0001, USA

Fax: +1 202 307 6777

Email: AskDOJ@usdoj.gov

Salutation: Dear Attorney General

Secretary Michael Chertoff, US Department of Homeland Security, Washington, DC 20528, USA

Fax: + 1 202 456 2461

Salutation: Dear Secretary Chertoff

The Honorable Dr Condoleezza Rice

Secretary of State, US Department of State, 2201 C Street NW, Washington, DC 20520, USA

Fax: + 1 202 261 8577

E-mail: Secretary@state.gov

Salutation: Dear Secretary of State

COPIES TO: diplomatic representatives of USA accredited to your country.

PLEASE SEND APPEALS IMMEDIATELY.