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USA: Justice Years Overdue

Federal court hearing for Uighur detainees in Guantánamo

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"*The judge in this case is not a machine, he's a person, who will try to incorporate all that is relevant in determining a just and appropriate and conscionable outcome*"
US federal judge Ricardo Urbina, hearing on Uighur detainees, 21 August 2008[1]

On 30 September 2008, the US government finally conceded that none of the remaining 17 Uighur detainees held since 2002 in military custody in the US Naval Base in Guantánamo Bay, Cuba, are "enemy combatants", the label it has attached to them for almost seven years to justify their indefinite detention without charge or trial.

At 10am local time on 7 October 2008, Judge Ricardo Urbina of the US District Court for the District of Columbia in Washington, DC, is due to conduct a hearing to consider whether the Uighurs should be released into the USA pending final determination of where they will be settled. They cannot be returned to their native China because they would face a serious risk of torture or execution there.[2] The US government 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".[3]

The continued detention of the Uighurs has been deeply troubling. Yet even now the US administration argues that it should be allowed to hold them in Guantánamo until it finds a country willing to accept them, however long that may take. It claims this authority under the executive's "necessary power to wind up wartime detentions in an orderly fashion". Enough is enough. Even if the Uighurs' detention in Pakistan in late 2001 at the time of the

[1] *In re: Guantánamo Bay detainee litigation*. Status hearing before the Honorable Ricardo M. Urbina, United States District Court for the District of Columia, 21 August 2008, official court transcript.
[2] The mainly Muslim Uighur community is the majority ethnic group in the Xinjiang Uighur Autonomous Region in the northwest of China. See, for example, Amnesty International Urgent Action, USA: Uighurs held in Guantánamo Bay, Fear of forcible return/Fear of torture/Fear of execution, 4 December 2003, http://www.amnesty.org/en/library/info/AMR51/147/2003/en.
[3] "The Uighurs are a difficult problem and we are trying to resolve all issues with respect to all detainees at Guantánamo. The Uighurs are not going back to China, but finding places for them is not a simple matter, but we are trying to find places for them. And we are trying to find places for them, and, of course, all candidate countries are being looked at." Roundtable with Japanese journalists, Washington, DC, 12 August 2004, http://www.state.gov/secretary/former/powell/remarks/35204.htm.

international armed conflict in Afghanistan was affected by the "fog of war", any such fog has long since cleared – only to be replaced by executive obfuscation and delaying tactics. The government should replace prevarication with a humanitarian approach, allow the Uighur detainees into the USA, and work to find lawful, fair, safe and durable solutions in all their cases.

The treatment of the Uighurs has illustrated 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. Resolving their situation should mark not only a new start for these men, but also full recognition by the USA of its obligation to ensure that anyone whose rights under international law have been violated in US custody has access to effective remedy.

Remedy for the Uighur detainees – arbitrarily detained in violation of international human rights law – is long overdue. Remedy includes reparation, one aspect of which is restitution. The latter should, whenever possible, restore the victim to the original situation before the violation occurred. This may include restoration of liberty.[4] This should be the outcome here.

Years of ill-treatment and injustice

At least 22 Uighur detainees have been held in Guantánamo. Most of the 17 still detained there 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.

Guantánamo was chosen by the administration for the detention of those foreign nationals it labelled as "enemy combatants" in order to keep the detentions away from the scrutiny of the US courts. Even as successive US Supreme Court interventions – *Rasul v. Bush* (2004), *Hamdan v. Rumsfeld* (2006) and *Boumediene v. Bush* (2008) – chipped away at this unlawful detention regime, the administration responded by seeking to drain or delay the impact of these rulings for the detainees. The government now seeks to continue to subject to indefinite detention at Guantánamo Uighur detainees it does not consider "enemy combatants". The men's lawyers have argued that if the government is allowed to do so, and if no court is able or willing to offer relief, "then six years of litigation and two trips through the entire apparatus of the federal judiciary were pointless".[5]

From the outset, ill-treatment was a predictable part of a detention regime operated away from independent judicial oversight, and the Uighur detainees were not spared such abuse. In May 2004, Amnesty International alleged that agents of the Chinese government had been in Guantánamo in 2002 and had participated in the ill-treatment of Uighur detainees, including

[4] See, for instance, Principles 15-23 of the United Nations Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law, adopted by consensus by the UN General Assembly in December 2005.

[5] *In Re: Guantánamo Bay detainee litigation. Kiyemba v. Bush.* Reply of Huzaifa Parhat to government's opposition to motions for parole and judgment ordering release. In the US District Court for the District of Columbia, 15 August 2008.

by sleep deprivation, threats and environmental manipulation.[6] The US government never directly responded to the organization, but a May 2008 report of the Office of the Inspector General of the US Justice Department revealed that an agent of the Federal Bureau of Investigation had reported that "several Uighur detainees were subjected to sleep deprivation or disruption while being interrogated at Camp X-Ray by Chinese officials prior to April 2002". One of the detainees had alleged that "the night before his interrogation by Chinese officials, he was awakened at 15-minute intervals the entire night and into the next day". The Inspector General's report stated that "some Chinese officials visited GTMO and were granted access to these detainees for interrogation purposes".[7] The Uighur detainees told the Combatant Status Review Tribunals (see below) in late 2004 and early 2005 that they had been ill-treated by members of the Chinese delegation. In the District Court hearing on 21 August 2008 cited above, Judge Ricardo Urbina indicated his concern that "there have been a number of situations that have arisen with respect to the interrogation of the Uighurs which appear to run contrary to what these people were assured would happen; one of which was having a Chinese interrogator when these people were told no Chinese interrogator would participate in interrogation".

For the years since then, in the absence of judicial oversight, the indefinite and isolating nature of the detentions at Guantánamo has remained cruel, inhuman and degrading.[8] In February 2007, for example, Uighur detainee Ali Mohammed (aka Anvar Hassan) was being

> "held in isolation in Camp 6, a 'super-max' prison, at least 22 hours a day. He never sees direct sunlight and has no access to fresh air. During his two hours per day of 'recreational time (which on alternating days, is in the middle of the night), Ali is placed in a cage where he can sometimes see other prisoners but is punished if he tries to touch or greet them. He is compelled to complain to get clean clothes. He is denied privacy when he uses the toilet; even female guards can see him. His food and drinks are always cold. He eats every meal alone. Like all Guantánamo prisoners, he is not allowed any visitors other than occasional trips by counsel and the Red Cross, and he is not allowed to make phone calls. As [the US Supreme] Court recently affirmed, even convicted murderers cannot be made to endure conditions like these without first providing them the benefit of due process".[9]

The physical and psychological well-being of detainees kept in such conditions has long been of concern. In January 2008, for example, Amnesty International wrote to the US authorities to express its urgent concern about Uighur detainee Abdur Razakah, who was at that time on hunger-strike and being force fed twice a day. He and 15 of the other Uighur detainees were being held in Camp 6. The organization appealed to the USA to act with urgency on the cases, including by immediately improving their conditions of detention. This, the organization

[6] See Urgent Action http://www.amnesty.org/en/library/info/AMR51/090/2004/en.
[7] A review of the FBI's involvement in and observations of detainee interrogations in Guantánamo Bay, Afghanistan, and Iraq. Oversight and Review Division, Office of the Inspector General, US Department of Justice, May 2008.
[8] USA: Cruel and inhuman: conditions of isolation for detainees at Guantánamo Bay, April 2007, http://www.amnesty.org/en/library/info/AMR51/051/2007.
[9] *In re Petitioner Ali*, Petition for original writ of habeas corpus, In the US Supreme Court, 12 February 2007. The Supreme Court decision cited is *Wilkinson v. Austin*, 545 U.S. 209 (2005).

emphasised, would not only be the humane course of action, it would be consistent with an approach seeking to maximize the possibility of finding a fair and suitable third country solution. The psychological deterioration of the detainees concerned could only serve to make finding a country that would accept them more difficult. Amnesty International never received a response to its letter.

In a brief filed on 1 October 2008, in response to the US government's announcement the day before that it no longer considered any of the Uighur detainees to be "enemy combatants", lawyers for the men noted that, even then, as many as six of the detainees were believed to remain in solitary confinement in Camp 6. In their search for judicially ordered release of the detainees, the lawyers said that "the reflexive harshness of the government's treatment of these men should not go unmarked". They noted by way of illustration that the government had waited from 21 August 2008 – when Judge Urbina had held a hearing on the status of the Uighur detainees – to 30 September 2008 to make its announcement that none of the men were any longer considered "enemy combatants". The lawyers pointed out that the result of this delay "was more than six weeks of imprisonment under a regimen of astonishing psychological cruelty".[10]

Amnesty International understands that 16 of the Uighurs have now been moved into the lower security Camp Iguana, with one remaining in the communal conditions of Camp 4 at his own request. The government has said that the Uighur detainees will remain in such "special housing…until they are resettled to another country, provided they comply with camp rules, regulations, and procedures". In other words, not only does the government believe that it can hold the Uighurs in indefinite detention in its offshore prison camp until such time as a third country solution is found, but any perceived rule infractions by the detainees can result in their return to the punitively harsh regime of Camps 5 or 6.[11] The pursuit of unfettered executive power continues. Judicial intervention and remedy is called for.

Years of 'executive limbo': from CSRT hearings to parole hearing

In late 2004 or early 2005, five of the 22 Uighur detainees then in Guantánamo were found to be "no longer enemy combatants" by Combatant Status Review Tribunals (CSRTs). The CSRTs had been created by the US administration in July 2004 to review the "enemy combatant" status of the detainees held in Guantánamo.[12] This inadequate and unfair administrative review scheme consists of panels of three military officers who can rely on secret information and information obtained under coercion in making their determinations on the status of detainees who have no legal representation for this process and, in these cases, who had had little or no access to the outside world during their already more than two years in detention.

[10] *In re: Guantanamo Bay detainee litigation*. Petitioners' supplemental memorandum in response to government's notice of status. In the US District Court for the District of Columbia, 1 October 2008.
[11] In the status hearing he conducted on 21 August 2008 in the Uighur cases, Judge Ricardo Urbina noted that "there's a certain amount of restlessness and unhappiness and consequently a certain amount of disenchantment as expressed or otherwise that might reasonably be anticipated in a person who's been locked up for seven years and never having been convicted of anything, and the reasonableness of how one determines whether something was an infraction needs to take that into consideration".
[12] See §§6-9 of USA: Guantánamo and beyond: The continuing pursuit of unchecked executive power, May 2005, http://www.amnesty.org/en/library/info/AMR51/063/2005.

Despite their captors no longer considering them to be "enemy combatants", the five Uighurs were not released for another two years. In a case brought in federal court on behalf of two of them, the government argued that it had the authority to continue to detain individuals under such circumstances as part of the executive's "necessary power to wind up wartime detentions in an orderly fashion". In December 2005, US District Court Judge James Robertson noted that the government's claimed authority assumed that the detentions were lawful in the first place. He said that even if they were initially lawful, and even if "some reasonable wind up period of detention was allowable", the continued indefinite detention of the men, nine months after the CSRT's finding in their cases, was unlawful. However, Judge Robertson decided that he was unable to provide a remedy.[13]

> "I will speak for myself and for all Uighurs. You are accusing us of participating in action with al Qaida and the Taliban against the US. It does not explain the Uighurs, we are not a part of al Qaida or the Taliban. We have nothing against the US government. We have to solve our own problems with our own country's independence. We have only one enemy, and that's the Chinese. They have been torturing and killing us all: old, young, men, women, little children, unborn children. They have been killing these people. We have this kind of enemy. We are the enemy of the Chinese and they are the enemy of us. We have enough enemies. Why would I jump and become an enemy to another country? I wanted to say that, because of all the accusations you are blaming on me, you don't have any reasonable proof. I want you to check my case and other Uighurs' cases and review all the files fairly. I want all the Uighurs to receive fairness from the review board…"
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> Uighur detainee Jalal Jalaldin, Combatant Status Review Tribunal, Guantánamo, 2004

The subsequent response of the executive illustrated the extent to which it sought to retain control over the fate of the detainees, free from judicial oversight and intervention. An appeal from Judge Robertson's ruling was scheduled to be argued in the US Court of Appeals for the District of Columbia (DC) at 9.30am on Monday 8 May 2006. At 4.30pm on Friday 5 May 2006, the detainees' lawyers received a telephone call from the Department of Justice informing them that their clients, along with three other Uighur detainees, had been transported to Albania, where they had landed about one hour earlier. At 4.39pm on 5 May 2006, the administration filed an emergency motion in court arguing that the case should be dismissed as moot because the detainees were now in Albania. It transpired that the detainees had been told by their military captors on or around 2 May 2006 that they were going to be sent to Albania, but had no way of contacting their lawyers. The lawyers had been informed "by highly placed sources that two western governments, each of which has a Uighur expatriate population, had made substantial progress toward a resettlement of the Uighurs in those countries prior to May 5, 2006. Yet the Executive elected to send the men to one of the poorest countries in Europe, a place with no real economic prospects for the men, and where the men have no family, friends, common language, or point of reference".[14]

[13] *Qassim v. Bush*, US District Court for the District of Columbia, Memorandum of 22 December 2005.
[14] *Qassim v. Bush*, Status report concerning petitioners-appellants and request for briefing schedule. US Court of Appeals for the DC Circuit, 16 May 2006.

Meanwhile, another 17 Uighur detainees remained in Guantánamo, their status as "enemy combatants" affirmed by CSRTs. Allegations about command influence over the CSRT decision-making process, including in the Uighur cases, would later emerge. In 2007, for example, a US Army Major who had sat on 49 CSRT panels, came forward to reveal that while some of the Uighur detainees had been found not to be "enemy combatants", others had been affirmed as "enemy combatants" based on "evidence that was essentially the same".[15] In the case of Uighur detainee Anvar Hassan, government interrogators had concluded that he had been in Afghanistan "to train and learn to fight for the Uyghur cause against Chinese oppression and was not fighting for the Taliban or Al Qaida" and that he did not "represent a threat to the United States or its interests". They advised that "all efforts be made to expedite" his release to and asylum in a country not under Chinese rule. Then, on 16 November 2004, a CSRT panel decided that he was not properly classified as an "enemy combatant".[16] However, the Pentagon ordered that a second CSRT panel be convened "to review additional classified evidence, unavailable to the previous Tribunal".[17] This second panel decided that Hassan was "properly designated as an enemy combatant", a decision finalized by the CSRT authorities on 25 February 2005. It later came to light that, prior to the second panel's consideration of the case, an email from Pentagon authorities had told it that "points to consider" in determining Anvar Hassan's status included the fact that other identically situated Uighurs had been classified as "enemy combatants" and that "inconsistencies will not cast a favorable light on the CSRT process". The email further noted that "properly classifying" the detainees as "enemy combatants" would provide an opportunity to "further exploit them here in GTMO".[18]

On 30 December 2005, the Detainee Treatment Act (DTA) passed into law. The DTA sought to strip the US courts of jurisdiction to consider *habeas corpus* petitions from Guantánamo detainees, and the DC Court of Appeals was given exclusive jurisdiction to "determine the validity of any final decision" of a CSRT "that an alien is properly detained as an enemy combatant". In *Hamdan v. Rumsfeld* in June 2006, the US Supreme Court ruled that the DTA had not stripped federal courts of jurisdiction over *habeas corpus* petitions pending when the DTA was enacted. The legislative response to the *Hamdan* ruling was the Military Commissions Act (MCA), which was enacted in October 2006. Among other things, the MCA restated the *habeas corpus* bar, declaring that it applied to all cases. The legislation left the DTA scheme of judicial review of CSRT decisions intact.

In December 2006, a petition was filed in the DC Circuit Court of Appeals on behalf of Uighur detainee Huzaifa Parhat, who had been held in Guantánamo since June 2002. In 2003, an officer with the Pentagon's Criminal Investigation Task Force had recommended Parhat's conditional release, but the following year a CSRT decided that Parhat was an "enemy combatant", on the theory that he was "affiliated" with the East Turkistan Islamic Movement (ETIM), and that the ETIM was "associated" with *al-Qa'ida* and the Taleban, and engaged in hostilities against the USA. The CSRT acknowledged that the US government had provided "no source document evidence" to suggest that Parhat had actually joined ETIM or that he had

[15] See USA: No substitute for habeas corpus: six years without judicial review in Guantánamo, November 2007 http://www.amnesty.org/en/report/info/AMR51/163/2007.
[16] *In re Ali*, Petition for original writ of *habeas corpus*, In the US Supreme Court, 12 February 2007.
[17] *In re Ali*. Government motion to dismiss. In the US Supreme Court, May 2007.
[18] *In re Ali*, Petition for original writ of *habeas corpus*, 12 February 2007, *op. cit.*

committed any hostile acts towards the USA, and added that he was "an attractive candidate for release". He nevertheless remained in indefinite detention, despite it being "undisputed that he is not a member of al Qaida or the Taliban, and that he has never participated in any hostile action against the United States or its allies".[19]

In June 2008, the DC Circuit Court of Appeals ruled in Huzaifa Parhat's case, the first case in which it had considered a CSRT decision under the DTA regime. It concluded that the CSRT's decision in his case was "not valid", because the evidence on which it had been based was "insufficient to categorize Parhat as an enemy combatant under [the Pentagon's] definition".[20] To affirm the CSRT's determination under such circumstances, the Court of Appeals said, "would be to place a judicial imprimatur on an act of essentially unreviewable executive discretion." Among other things, the Court found "credible" Parhat's argument that the government was relying on a number of classified assertions the original source of which was the Chinese government, an authority "which may be less than objective with respect to the Uighurs". The Court of Appeals also quoted from a 19th century nonsense poem when rejecting the US government's suggestion that "several of the assertions in the intelligence documents are reliable because they are made in at least three different documents". "Lewis Carroll notwithstanding", the Court wrote, "the fact that the government has 'said it thrice' does not make an allegation true".[21] The Court further noted that the government was insisting that statements made in the classified documents were reliable because the US Departments of State and Defense would not have included them in intelligence documents if they were not. The Court responded that "this comes perilously close to suggesting that whatever the government says must be treated as true", which would have the effect of rendering the roles of both the CSRT and the Court "superfluous".[22]

Rejecting the rubber-stamp role the administration would restrict it to, the Court of Appeals ordered the authorities to release Huzaifa Parhat, to transfer him, or promptly to conduct another CSRT.[23] The administration subsequently decided not to conduct another CSRT but to treat Parhat and four of the other Uighur detainees – Abdul Semet, Jalal Jaladin, Khalid Ali and Sabir Osman – "as if they were no longer enemy combatants while efforts continue to resettle them in another country". At a hearing in front of District Court Judge Ricardo Urbina on 21 August 2008, the government clarified that the notion of treating the detainees "as if" they were no longer "enemy combatants" meant that they indeed were "no longer enemy combatants" – the government admitted that the "as if" phrase was "really just a semantic difference with no real meaning".

[19] *Parhat v. Gates*, US Court of Appeals for the DC Circuit, 20 June 2008.
[20] *Ibid*.
[21] *Ibid.*, quoting Lewis Carroll, The Hunting of the Snark (1876) ("I have said it thrice: What I tell you three times is true"). The US administration has also on countless occasions publicly stated that all detainees in US custody in the "war on terror" are being treated humanely. This assertion has been far from the truth.
[22] *Ibid*.
[23] *Ibid*. ("We merely reject the government's contention that it can prevail by submitting documents that read as if they were indictments or civil complaints, and that simply assert as facts the elements required to prove that a detainee falls within the definition of enemy combatant. To do otherwise would require the courts to rubber-stamp the government's charges…").

Judge Urbina noted that while the government now recognized that the five were not "enemy combatants", it was "unclear whether they ever were enemy combatants". Three years earlier, in his ruling on the Uighur detainees subsequently transported to Albania, Judge Robertson had said something similar: "The government's use of the Kafkaesque term 'no longer enemy combatants' deliberately begs the question of whether these petitioners ever were enemy combatants".

Judge Urbina stated that "the only remaining issue" with respect to the Uighur detainees was "remedy". The options pending final resolution of the cases, he said, were release into the USA or continued detention in Guantánamo, given that transfer to a third country "is not as easy as it sounds". The judge said that he did not understand why release into the USA pending final resolution would not be "a viable option". That will be the subject of the "parole" hearing in his court on 7 October 2008.

At the 21 August status hearing, Judge Urbina noted the government's assertion that it was "constantly reviewing" each Guantánamo detainee's case. He said that "this concept of constantly reviewing seems to some extent to be inconsistent with the government's inability to inform the Court whether the remaining Uighurs are enemy combatants or not". He described the detainees' situation as one of "executive limbo", and one that "has to change".

Then, on 30 September 2008, the government informed Judge Urbina that it had "now decided" that the remaining 12 Uighur detainees – 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 – would be "put in the same category" as the other five. In other words, the government reiterated, "they will be treated as if they are no longer enemy combatants". In other words, dropping the semantics, they are not "enemy combatants".[24]

This, according to the government, does not mean their release from years of indefinite detention, but continued detention while the government makes "its best efforts" to find another country to take them.[25] As noted above, the only remedy the government has stated it owes a detainee whom it no longer considers to be an "enemy combatant", and who cannot be returned to his home country, is to detain him in better conditions "until he is placed in another country". Even in such a case, the government asserts, should the detainee's behaviour jeopardize "operational security", he can be moved to the harsher conditions endured by those still held as "enemy combatants", such as in Camp 5 or Camp 6.[26]

In a brief filed in Huzaifa Parhat's case in the District Court in August 2008, opposing any judicially ordered release into the USA, the US administration wrote that "the admission of aliens is a quintessential sovereign function reserved exclusively to the political branches of Government". The Department of Defense, it maintains, "has the authority to wind up Parhat's

[24] On 2 September 2008, the Court of Appeals had denied a government appeal for a rehearing on its *Parhat* judgment of June 2008. The government had appealed for the Court to "clarify that it has not resolved the scope of the District Court's authority" to order release, including to the US mainland".
[25] *In re: Guantanamo Bay detainee litigation*. Respondent's combined opposition to Parhat's motion for immediate release into the United States and to Parhat's motion for judgment on his habeas petition. US District Court for the District of Columbia, 5 August 2008.
[26] USA: Cruel and inhuman: conditions of isolation for detainees at Guantánamo Bay, *op. cit.*

detention in an orderly fashion", now that "the exigency supporting Parhat's wartime detention has abated".[27] At the same time, it asserted that he has "no right to be released or paroled into the United States".

The US government must recognize the situation it has created by detaining these men and labelling them as "enemy combatants" for years, and must accept the responsibility it bears in these cases.

The General Secretary of the Uyghur American Association (UAA) has signed a declaration in federal court that there are more than 250 Uighur people live in and around the District of Columbia, that there is "widespread sympathy" within this community for the Uighurs held in Guantánamo and "broad support" for their release. He continues:

> "The Uyghur American community is ready, willing, and able to provide support to any Uyghurs who are released from Guantánamo to America. Uyghurs stand ready to provide residential accommodation to Mr Parhat, and other released Uyghurs, as well as logistical support with regard to language, cultural, and religious matters. The community is ready, willing and able to assist Mr Parhat as regards any conditions of temporary release that might be imposed by the Court, including with regards to transportation, language, and the like, that may be necessary to meet reporting obligations to government officials and to interact with courts, government officials, and the world at large.
>
> The Uyghur American community has considerable experience in addressing matters of this kind. Many Uyghurs who have made their way to America have suffered persecution, and arrive here with significant logistical needs. Also, we are aware that after long imprisonment, Mr Parhat and other Uyghurs will need considerable support to acclimate themselves to normal life. The Uyghur American community has on many occasions in the past provided this kind of logistical and personal support."[28]

The Uighur detainees should be released into the USA, and given access to the US asylum system. They should be offered the opportunity to apply for asylum, and in the event they do not qualify for refugee status, they must receive other forms of protection and be allowed to stay in the USA if they so wish. Alternatively, after the Uighurs are "paroled" into the USA, the authorities must actively and urgently engage in and facilitate the search for durable solutions in third countries, taking into account the suitability of third state solutions as well as the individual detainee's views and preferences in each case. Any such transfers to third countries should be with the informed consent of the individual concerned, and he must not be subjected to pressures or restrictions that may compel him to live in a particular country.

Justice is years overdue for these Uighur detainees. There must be no more delays, no more indefinite detention, and no more ill-treatment. The remedy begins with release into the USA.

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[27] Respondent's opposition to Parhat's motion for immediate release into the United States, *op. cit.*
[28] *In re: Guantanamo Bay detainee litigation. Kiyemba v. Bush.* Declaration of Alim Seytoff. In the US District Court for the District of Columbia, 21 July 2008.