

PUBLIC

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Further information on UA 278/08 (AMR 51/112/2008, 08 October 2008) and update (AMR 51/137/2008, 12 November 2008) – Legal concern

**USA**                    **17 Uighur detainees held at Guantánamo**

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Seventeen ethnic Uighurs, in their seventh year of indefinite military detention in the US Naval Base at Guantánamo Bay in Cuba, remain there nearly four months after a federal judge ruled that their continued detention was unlawful and ordered their release into the USA. The order was stayed after the previous US administration appealed to the US Court Appeals that the ruling represented an “extravagant” remedy and an “expansive view of judicial authority”. The Court of Appeals has not yet issued its ruling.

On 22 January 2009, two days after his inauguration, President Barack Obama signed an executive order committing his administration to closing the Guantánamo detention facility “as soon as practicable” and no later than one year from the date of his order. The executive order requires the Attorney General to coordinate an immediate “comprehensive agency review” of all the Guantánamo detentions and decide what should happen to each of the detainees. The executive order does not address the issue of releasing detainees into the USA. Neither does it address the issue of detainees whose detention has been deemed unlawful by the courts and whose release has been ordered.

On 7 October 2008, Judge Ricardo Urbina of the District Court for the District of Columbia ordered the government to release the 17 Uighurs into the USA. The government had earlier conceded that the 17 are not “enemy combatants”, the label it had attached to them for years in an attempt to justify their indefinite detention without charge or trial. The majority of the Uighurs have been cleared for release since 2003. The USA has accepted that the Uighurs cannot be returned to their native China because they would face a serious risk of torture or execution there. However, the previous administration was unable to find a country willing to accept them in more than four years of trying. It said it had approached and re-approached nearly 100 countries.

Judge Urbina noted that there were individuals and organizations ready and willing to support the Uighurs upon resettlement in the USA “by providing housing, employment, money, education and other spiritual and social services”. Judge Urbina had asked the previous administration what threat the Uighurs would pose if released into the USA, but the government did not provide him with any evidence of such a threat.

President Obama’s executive order notes that “new diplomatic efforts” may result in “an appropriate disposition of a substantial number” of the Guantánamo cases, and requires the Secretary of State to “expeditiously pursue and direct negotiations and diplomatic efforts with foreign governments”. Some other governments have indicated that they might be prepared to take released detainees who cannot be returned to their home countries for fear of the human rights violations they could face there.

Amnesty International believes that the new administration must play its part in what it will be asking other countries to do – to take released detainees – and that for it to do so could only encourage a positive response from other governments in this regard. The US administration should start by dropping the government’s appeal against Judge Urbina’s order and releasing the Uighurs into the USA. Amnesty International can see no reason for the cases of the Uighurs to be included in the review ordered by President Obama. There is no reason that their release into the USA should be delayed any longer.

For further information, 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>; *USA: Federal judge orders release of Uighurs held at Guantánamo, government appeals*, 8 October 2008, <http://www.amnesty.org/en/library/info/AMR51/111/2008/en>; *USA: US Court of Appeals blocks release of Guantánamo Uighurs as government resorts to 'scare tactics'*, 10 October 2008, <http://www.amnesty.org/en/library/info/AMR51/113/2008/en>; and *USA: Indefinite detention by litigation: 'Monstrous absurdity' continues as Uighurs remain in Guantánamo*, 12 November 2008, <http://www.amnesty.org/en/library/info/AMR51/136/2008/en>.

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

- welcoming President Barack Obama's commitment to close the Guantánamo detention facility, and urging that the stated aim of doing this "as soon as practicable" be interpreted and applied with all due urgency;
- expressing concern that the Uighurs remain in indefinite detention at Guantánamo nearly four months after US District Court Judge Ricardo Urbina ordered their release into the USA;
- suggesting that there is no need for the cases of the Uighurs to be included in the interagency review of detentions ordered by President Obama;
- welcoming the local community support in the USA that has been pledged to help the Uighurs adjust to life outside Guantánamo;
- pointing out that moving to drop the appeal against Judge Urbina's order and releasing the Uighurs into the USA can only serve to send a positive signal to those governments whose assistance the new administration will seek in taking released detainees who cannot be returned to their home countries;
- calling on the US government, in the name of humanitarianism and justice, to immediately release the Uighur detainees into the USA, and to work to ensure fair, safe and lasting outcomes for these men.

**APPEALS TO:**

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**Salutation: Dear Attorney General**

Eric H. Holder, Attorney General-designate, US Department of Justice  
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**Salutation: Dear Attorney General-designate**

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**Salutation: Dear Mr Craig**

The Honorable Robert M. Gates  
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**Salutation: Dear Secretary of Defense**

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

**PLEASE SEND APPEALS IMMEDIATELY.** Check with the International Secretariat, or your section office, if sending appeals after 9 March 2009.