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Amnesty International concerns on Uighur asylum seekers and refugees

Introduction

Amnesty International remains deeply concerned about the forcible return of Uighurs to China in the context of its ongoing political and security crackdown in the Xinjiang Uighur Autonomous Region (XUAR) against so-called “separatists, terrorists and religious extremists”, a crackdown which has intensified following the 11 September 2001 attacks in the USA.

Like other citizens of the People’s Republic of China (PRC), Uighurs may leave China for a variety of reasons, including for business and educational purposes. It would not be accurate to assume that any Uighur who claims asylum abroad has a well-founded fear of persecution, and each case should be considered on its merits in line with the provisions of the 1951 Refugee Convention and its 1967 Protocol relating to the Status of Refugees and other relevant international or national standards on protection.

Nevertheless, Amnesty International is concerned that given the current political crackdown in the XUAR, the mere act of claiming asylum would be viewed with deep suspicion by the Chinese authorities if it became known to them, or if they suspected that this had occurred, increasing the risk of serious human rights violations upon return. In one case, unofficial reports suggest that a Uighur may have been charged and sentenced, partly on account of his claiming asylum abroad (see case of Mohammed Tohti Metrozi below).

Uighurs who are suspected by the Chinese authorities to have claimed asylum will, at the very least, be questioned upon their return to China. Due to their ethnic minority status, Uighur asylum seekers who are forcibly returned are likely to be viewed by the Chinese authorities as political suspects and face arbitrary detention or imprisonment. A returnee would raise suspicion due to their expired passport, or lack

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of passport, and due to their lengthy absence from China without any legal travel documentation. In this context, it is important to note that Article 322 of the Chinese Criminal Law makes “illegally crossing a national boundary” an offence punishable by up to one year in prison.

In addition, if the authorities suspect a Uighur of seeking asylum abroad, and/or if they suspect a history of involvement in either political opposition movements or in the religious activities that are currently being repressed in the XUAR, then this person would come under further scrutiny. Under these circumstances, there is a strong risk of serious human rights violations, including arbitrary detention and torture or ill treatment. If a Uighur is suspected of playing a leading role in organizing “separatist”, “terrorist” or “illegal religious” activities, they would face a long period of imprisonment, or possibly the death sentence and execution.

Claims to asylum

The risk of torture or ill-treatment upon forcible return

Amnesty International considers that any Uighur asylum seeker detained upon return to China would be at high risk of torture or ill-treatment. China has been a party to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment since 1988, yet torture remains endemic within China’s criminal justice system. It has been reported across the country in a wide variety of state institutions, including police stations, detention centres, Re-education through Labour Camps, psychiatric hospitals and prisons. No effective mechanisms exist to ensure that credible allegations of torture or ill-treatment are independently investigated and that suspected perpetrators are brought to justice.¹

In view of the ongoing branding of Uighur nationalists as “separatists, terrorists and religious extremists” in the official Chinese media, Amnesty International considers that Uighurs, whom the authorities suspect to have claimed asylum abroad on such grounds, would be particularly vulnerable to torture and ill-treatment.

Methods of torture in the Xinjiang Uighur Autonomous Region (XUAR) appear to be particularly brutal, often including techniques which have not been documented elsewhere in China. Methods documented by Amnesty International include:

- insertion of horse hair or wires into the penis;
- insertion of metal nails or needles under the fingernails or having fingernails pulled out;
- submersion in cold water, with the water level gradually raised in an attempt to force suspects to confess to crimes;
- severe beatings and kicking;

¹ For further information on the widespread nature and practice of torture in China, please see Amnesty International: *People’s Republic of China: Torture – a growing scourge in China: Time for action*, February 2001, ASA 17/004/2001

- use of electric batons which give powerful electric shocks.

The risk of execution upon forcible return

In common with general practices against criminal suspects in China, those deemed to have committed relatively minor offences are likely to be treated more “leniently” than those accused of having taken a leading or organizing role. This is a distinction made in several provisions of the Chinese Criminal Law, including “crimes against state security” under which thousands of Uighur pro-independence supporters or independent Islamic teachers or leaders have reportedly been charged and sentenced. Amnesty International has recent evidence indicating that leading political activists, including most recently, Shaheer Ali (mentioned below), are at serious risk of being sentenced to death and executed. Others who have played a less prominent role are unlikely to be sentenced to death, but still face other serious human rights violations, including arbitrary detention, torture and unfair trial.

Cases of forcible returns

Since September 2001, Amnesty International has documented various cases in which Uighur asylum seekers who were forcibly returned to China, were detained, reportedly tortured and in some cases sentenced to death and executed after their return. They include:

- Shaheer Ali, who was sentenced to death in March 2003 and executed after being forcibly returned from Nepal to China in 2002. He had been recognised as a refugee by UNHCR in Nepal and was awaiting resettlement to a third country. He had left behind a detailed testimony about being tortured while detained for eight months in the XUAR in 1994.
- Abdu Allah Sattar, whose fate has remained unknown since he was detained at the same time as Shaheer Ali in Nepal. He is believed to have been forcibly returned to China.
- Kheyum Whashim Ali, who has reportedly been tortured in detention in Michuan prison in the XUAR after being forcibly returned to China in mid-2002. He had also been recognised as a refugee by UNHCR in Nepal.
- Muhammed Tohti Metrozi, who was detained in Urumqi after being forcibly returned to the XUAR from Pakistan in July 2003. He was reportedly tried on or around 10 April 2004 in connection with sheltering Uighurs who fled from China to Pakistan, belonging to a “separatist” group and applying to UNHCR for refugee status.
- Abdukakhar Idris, a former tailor and bookkeeper from Kashgar in the XUAR, who is believed to have been forcibly returned from Kazakstan to the XUAR after his “disappearance” in Almaty in April or May 2003. He had approached UNHCR for refugee status before he went missing. His current whereabouts, legal status or state of health are unknown.
- Ahmet Memet and Turgun Abbas, Islamic students from Kashgar who are believed to have been forcibly returned to China after reportedly being

detained in Kazakstan in December 2001 in the border village of Panfilov. They had both reportedly applied to UNHCR for refugee status. There is no further information about their current whereabouts, legal status or state of health.

Amnesty International has documented cases in which Uighurs have been detained in China solely for being related to a suspected political activist. For example:

- Mahmut Akatal, a Uighur trader living in Turkey, reported that his son was detained by the authorities for one month in Xinhe County, Aksu Prefecture, XUAR, after his father gave an interview to *Radio Free Asia* in May 2003 about his arbitrary detention, torture and ill-treatment for 13 months in the XUAR during a visit home in 1997. The son was interrogated about why his father had moved to Turkey.²
- Ruzi Mamat and Aysham Kerim, both ethnic Uighurs, were detained on 11 May 2005. It is not known why they were detained, but both are former employees of Rebiya Kadeer, a prominent Uighur businesswoman who was detained and imprisoned for eight years in 2000 on charges of ‘leaking state secrets’. Also detained are Karima and Shu Shao Chan who work for the Bank of China and were involved in giving a loan to Kadeer’s family.³

Monitoring

The China research team at our international secretariat has informed us that while they do not have verifiable evidence that the Chinese authorities monitor the activities of Chinese activists overseas; including Uighur and Tibetan nationalists, political dissidents and Falun Gong practitioners; it is their view that it is highly likely that monitoring takes place.

The China Coordinator for Amnesty International Canada maintains close ties to the Chinese community in exile in Canada. She has been informed numerous times by a variety of diaspora/dissident groups in Canada; Falun Gong, Han Democracy groups, Tibetans, Uighurs; that any public activity they hold is monitored by PRC Embassy officials, with photographs taken of participants. While Amnesty International is not able to verify the surveillance claims, the reports we receive of surveillance activities are frequent, from reliable sources and consistent.

Further information

The following is a selection of recent public documents produced by Amnesty International on the human rights situation in the Xinjiang Uighur Autonomous Region of China. Further documents on more general thematic issues in China, including torture and the death penalty should also be consulted.

² Amnesty International, *People’s Republic of China: Uighurs fleeing persecution as China wages its “war on terror”*, AI Index: ASA 17/021/2004, July 2004.

³ Amnesty International, *Fear for safety/fear of torture and ill-treatment*, AI Index: ASA 17/016/2005, 13 May 2005.

- ◆ People's Republic of China: Gross human rights violations in the Xinjiang Uighur Autonomous Region, April 1999 (ASA 17/18/99)
- ◆ People's Republic of China: Uighur man reportedly tortured to death, 23 October 2000 (ASA 17/034/2000)
- ◆ Urgent Action: Fear of refoulement of Kheyum Whashim Ali, Shaheer Ali and Abdu Allah Sattar from Nepal, 19 April 2002 (ASA 31/033/2002) and related updates (ASA 17/036/2002, ASA 17/037/2003)
- ◆ Urgent Action: Fear of forcible return of Elham Tohtam, Ablitip Abdul Kadir and possibly one other man from Pakistan, 25 April 2002 (ASA 33/011/2002) and related update (ASA 33/013/2002)
- ◆ People's Republic of China: China's anti-terrorism legislation and repression in the Xinjiang Uighur Autonomous Region, March 2002 (ASA 17/010/2002)
- ◆ People's Republic of China: No justice for the victims of the 1997 crackdown in Gulja (Yining), 4 February 2003 (ASA 17/011/2003)
- ◆ Urgent Action: Fear of forcible return of Abdulwahab Tohti and Muhammed Tohti Metrozi from Pakistan, 17 July 2003 (ASA 33/008/2003)
- ◆ Urgent Action: Fear of forcible return of Uighurs held in Guantánamo Bay, 4 December 2003 (AMR 51/147/2003) and related updates (AMR 51/029/2004, AMR 51/044/2004, AMR 51/090/2004)
- ◆ People's Republic of China: International community must oppose attempt to brand peaceful political activists as "terrorists", 19 December 2003 (ASA 17/040/2003)
- ◆ People's Republic of China: Uighurs fleeing persecution as China wages its "war on terror", July 2004 (ASA 17/021/2004)
- ◆ Amnesty International , Press Release, News Service No: 064, AI Index: ASA 17/010/2005, 17 March 2005.