

ALI MOHAMMED, OR ANWAR HASSAN*
CHINESE UYGHUR GUANTÁNAMO DETAINEE IN NEED OF PROTECTION



Ali is a Chinese Uyghur, a Muslim minority from East Turkestan, the Uyghur homeland in far western China. Ali and other Uyghurs fled for safety from a Uyghur village in Afghanistan after the bombing campaign began, and were turned over to the United States by bounty-hunters. Five among them were classified as non-enemy combatants and, years later, released to Albania; seventeen remain in Guantánamo today. Ali himself was classified as a non-enemy combatant—before being ordered to undergo a second Combatant Status Review Tribunal in an effort to secure “consistency” in outcomes.

Summary

Ali is an ethnic Uyghur from the Xinjiang Autonomous Region of western China. He has been cleared for release from Guantánamo. Indeed, an initial Combatant Status Review Tribunal (CSRT) determined that Ali was *not* properly classified as an enemy combatant before he was ordered to undergo a second CSRT. In ordering a second CSRT, the Assistant Secretary of Defense for Detainee Affairs expressed concerns about the appearance of inconsistency in the finding that Ali was not an enemy combatant when “16 other Uyghurs with identical circumstances were determined to be enemy combatants.” Casting even further doubt on the integrity and independence of the CSRT process, earlier communication to the Chair of a CSRT panel noted that “inconsistencies will not cast a favorable light on the CSRT process or the work done by [Office for the Administrative Review of the Detention of Enemy Combatants].”

Inconsistencies abound, however: five other Uyghurs with virtually identical factual circumstances were classified as non-enemy combatants and released to Albania as refugees in 2006. Nevertheless, a second CSRT was convened and found Ali to be an enemy combatant. He remains in Guantánamo, cleared for release but lacking a country willing to offer humanitarian protection.

Personal History

In June 2001, Ali left China, a country in which the Uyghur minority faced severe persecution. He traveled overland to Bishkek, Kyrgyzstan where he stayed for two months. While there, he was constantly harassed by local police, who extorted money from him by threatening him with deportation back to China. Ali then moved on to Almaty, Kazakhstan but was met with a similar reception. Ali traveled to Afghanistan in the hopes of seeking asylum. Ali traveled through Pakistan (he did not stay in Pakistan as he believed that there was a high risk of deportation back to China where he expected to face imprisonment or death) and was arrested by the Taliban on arrival at the Afghan border because he had no beard and was neither Afghan nor Arab. He was thereafter released and he made his way to a Uyghur village near Jalalabad.

Ali stayed in this Uyghur village in Afghanistan until it was bombed by U.S. jets during the war with Afghanistan. When the village was destroyed, Ali traveled with fellow Uyghurs who had sought protection in the same village. They initially fled to the mountains and survived during the bombing in caves, enduring very low temperatures with little food. The group fled to Pakistan seeking refuge from the fighting.

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Ali was captured in Pakistan. He and other Uyghurs had fled to Pakistan but were handed over to an Afghan warlord who reportedly received a bounty from the United States in exchange for handing them over to U.S. government forces. He was eventually transferred to Guantánamo where he remains today despite a complete lack of evidence tying him to any criminal or terrorist activity.

Allegations

Ali arrived in Guantanamo in early 2002. He was previously held in Afghanistan. Ali declined to participate in the first process provided to Guantánamo detainees, the Combatant Status Review Tribunal (CSRT). This process was initiated in 2004 – after nearly two years of detention and only in response to a decision by the U.S. Supreme Court holding that Guantánamo detainees had a right to challenge the legality of their detention in federal court. In an attempt to circumvent the order for judicial review, the U.S. government created a process that severely limited the opportunities for a genuine review: the hearing was governed by three military officers; virtually all purported evidence was classified and inaccessible to the detainee; and evidence obtained by torture was used. Nevertheless, even within this patently biased process, Ali was classified as a *non-enemy* combatant – essentially innocent of any activities that would justify his detention. However, the U.S. Department of Defense subjected Ali to a *second* CSRT in the hopes of securing an enemy combatant determination. This second reconvened tribunal - devoid of the basic safeguards of any fair process and reconvened with the explicit aim of re-evaluating and overturning a prior non-enemy combatant determination – found Ali to be an enemy combatant.

In February 2007, Ali was cleared for release officially, yet he remains in Guantánamo absent an available safe country of refuge. In July of 2008, a U.S. federal court overturned the CSRT's enemy combatant classification of another Uyghur, Houzaifa Parhat, ruling that the government's allegation that ETIM has links with Al Qaeda was tenuous and unsubstantiated. Following the court's wholesale rejection of the CSRT's allegations against the Uyghurs, the government has now conceded that the remaining Uyghurs will be treated as non-enemy combatants.

Fear of Torture or Persecution in China

As with the other Uyghur detainees, Ali fled religious and ethnic persecution as a minority in China. If returned to China, Ali would indisputably face torture or summary execution. The Chinese have made it clear, through the interrogation of the Uyghur prisoners in Guantánamo and the pressure they have brought to bear on governments contemplating asylum for the Uyghurs, that they will mistreat the Uyghurs should they be released to Chinese custody.

Chinese persecution of the Uyghurs is well-documented. Foreign governments have consistently recognized the Chinese government's use of torture against detainees in their custody, and the unexplained deaths of significant numbers of detainees in Chinese custody. In the Xinjiang Uyghur Autonomous Region, there are arbitrary and summary executions, torture, arbitrary detention and unfair political trials. Since the escalation of the global war on terrorism, human rights violations appear to have intensified in the region. China has expanded its programmes to "re-educate" Uyghur imams, and broaden attacks on Uyghurs. In 2002, China outlawed use of the Uyghur language in all schools and public places.

Urgent Need for Humanitarian Protection

Ali left China seeking a better life; looking for somewhere that he could live, work, settle down and start a family; free from persecution based on his ethnicity. Instead he is entering his eighth year of imprisonment at Guantanamo. The guards have even told him and the other Uyghurs that they know they are innocent. Nonetheless, guards have threatened them with deportation to China. He continues to be subjected to indefinite detention until a country offers him refuge from persecution or torture.