

April 1, 2024

Secretary Alejandro Mayorkas
Department of Homeland Security
2707 Martin Luther King Jr Avenue, SE
Washington, D.C. 20528-0525

RECEIVED
By ESEC at 11:02 am, Apr 15, 2024

Re: The Situation of Uyghur Asylum Seekers

Dear Secretary Mayorkas:

We are writing to urge you to prioritize the processing of asylum claims by persons from the Uyghur region in the People’s Republic of China. Since the PRC began its formal persecution and forced assimilation of Uyghurs and other Turkic minorities in 2017,¹ there has been strong international and bipartisan condemnation of PRC actions, including a finding of genocide by then-Secretary Pompeo that has since been affirmed by Secretary Blinken. This genocide continues today. Hundreds of Uyghurs have sought safety in the United States, but unfortunately, due to the backlog in our asylum system, they are in a state of limbo. To help relieve the backlog, demonstrate U.S. commitment to protecting the victims of genocide, and provide greater security to this population, **we ask that the United States adopt a policy presuming that all Uyghurs, as members of an ethnic and religious group subject to widespread persecution in China, are eligible for asylum and prioritize their asylum cases for processing.**

As of April 2023, as many as 1,000 Uyghurs in the United States were waiting for their asylum claims to be processed.² Following the 2018 adoption of a “last in, first out” approach to processing asylum applications, many Uyghur asylum applicants who had been waiting for years found themselves facing an even longer wait. While their claims await processing, Uyghur asylum seekers live in fear and anxiety that they may be returned to China, where they face prolonged detention and even possible execution. While many asylum seekers face wait times and uncertainty about their status, Uyghurs outside of China also face a unique and cruel phenomenon at the hands of their country of origin: transnational repression—a pattern of PRC government threats to asylum seekers and their loved ones through digital or in-person means

¹ Uyghurs are a predominantly Muslim, Turkic-speaking ethnic group who live primarily in the Xinjiang region of China. Other ethnic Turkic minority groups in the region including Kazakhs, Uzbeks, and Kyrgyz (often referred to together under the umbrella term Turkic Muslims) are persecuted alongside Uyghurs. According to China’s 2010 census, Uyghurs comprised 46% and Kazakhs 7% of those living in the Xinjiang region. Hereinafter, any reference to the persecution of Uyghurs will necessarily include persecution of other Turkic minorities, though present in smaller numbers. “*Break Their Lineage, Break Their Roots*”: *China’s Crimes against Humanity Targeting Uyghurs and Other Turkic Muslims*, HUM. RTS. WATCH (Apr. 19, 2021), https://www.hrw.org/report/2021/04/19/break-their-lineage-break-their-roots/chinas-crimes-against-humanity-targeting#_ftn1.

² Henry Szadziewski, *No Time to Lose: Uyghurs Stuck in the United States Asylum System*, UYGHUR HUM. RTS. PROJECT (Apr. 11, 2023), <https://uhrp.org/report/no-time-to-lose-uyghurs-stuck-in-the-united-states-asylum-system/>.

designed to police Uyghur diasporas abroad.³ Since the PRC implemented a national policy of forced assimilation (“Sinicization”) in 2017,⁴ the government has heightened efforts to exert control over the estimated 500,000 members of the Uyghur diaspora around the world.⁵ Such efforts manifest as increasingly sophisticated digital surveillance, cyberattacks, and coercion of Uyghurs abroad to surveil their own communities on behalf of the PRC, at risk of retaliation or threatened harm to family members present in Xinjiang. The U.S. law enforcement community, including DHS, has made concerted efforts to thwart these actions, but we understand from our engagement with members of the Uyghur community that many Uyghurs with pending asylum claims are reluctant to seek the help of law enforcement for fear that it will prejudice their uncertain status in the United States.

Under 8 C.F.R. § 208.13 (b)(2)(iii)(A), U.S. law considers an applicant eligible for asylum if the applicant can establish that there is a pattern or practice of persecution of a group of persons similarly situated to the applicant on qualifying grounds for asylum.⁶ The State Department has effectively determined that there is a pattern or practice of persecution against the Uyghurs by concluding that there is a genocide against this population.⁷ The United Nations Office of the High Commissioner for Human Rights has similarly found that the Uyghurs experience a clear pattern or practice of persecution based on their religion and ethnic minority status in China.⁸ Thus, Uyghur applicants for asylum need only to establish that they are Uyghur⁹ in order to be found eligible for asylum. This makes for a far simpler asylum determination than in most other cases.

The U.S. Congress has demonstrated a keen interest in addressing the situation of the Uyghurs. In 2020, it passed the Uyghur Human Rights Policy Act with near unanimous support, and in 2021, it passed the Uyghur Forced Labor Prevention Act.¹⁰ Other governments have taken similar actions. In 2018, Germany declared that it would cease deportations of Uyghurs to China due to the group’s treatment in Xinjiang.¹¹ In 2019, following a national outcry surrounding the deportation of a Uyghur family, Sweden announced that it would grant refugee status to all Uyghur asylum seekers, and it has urged the UK and other European countries to follow suit in welcoming Uyghurs seeking safety.¹² The Canadian Parliament also passed a

³ Sam Judah, *China using families as “hostages” to quash Uyghur dissent abroad*, BBC (July 2023), <https://www.bbc.com/news/world-66337328>.

⁴ *China Primer: Uyghurs*, CONG. RSCH. SERV. 1 (Sept. 22, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF10281>.

⁵ Natalie Hall and Bradley Jardine, “*Your Family Will Suffer*”: *How China is Hacking, Surveilling, and Intimidating Uyghurs in Liberal Democracies*, UYGHUR HUM. RTS. PROJECT and OXUS SOC’Y FOR CENTRAL ASIAN AFFS. (Nov. 2021), <https://uhrp.org/wp-content/uploads/2021/11/UHRP-Your-Family-Will-Suffer-Report.pdf>.

⁶ Establishing asylum eligibility, 8 C.F.R. § 208.13 (2012).

⁷ Michael Pompeo, *Determination of the Secretary of State of Atrocities in Xinjiang*, U.S. DEP’T OF STATE (Jan. 19, 2021), <https://2017-2021.state.gov/determination-of-the-secretary-of-state-on-atrocities-in-xinjiang/>.

⁸ *OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People’s Republic of China*, U.N. OFF. OF THE HIGH COMM’R FOR HUM. RTS. (Aug. 31, 2022), <https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>.

⁹ Or other Turkic minority, as described supra note 1.

¹⁰ Public Law 117 - 78, 22 U.S.C. § 2656 (2021), <https://www.cbp.gov/trade/forced-labor/UFLPA>.

¹¹ Deutsche Welle, *Germany halts Uyghur deportations to China*, WORLD UYGHUR CONG. (Aug. 23, 2018), <https://www.uyghurcongress.org/en/germany-halts-uyghur-deportations-to-china/>.

¹² Chris Baynes, *Sweden grants refugee status to China’s Uyghur Muslims, prompting calls for UK to follow suit*, INDEPENDENT (March 20, 2019, 6:37 pm), <https://www.independent.co.uk/news/world/europe/sweden-uyghur-muslim-china-refugees-camps-asylum-seekers-a8832191.html>.

motion in 2023 calling for the government to “urgently leverage” its refugee program to provide expedited entry to Uyghurs and other Turkic Muslims.¹³

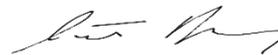
International law further supports action by the United States regarding Uyghurs’ asylum applications. The Genocide Convention (to which the United States is a party) mandates Contracting Parties to prevent and punish genocide.¹⁴ The convention compels countries to prevent genocide, and it is generally understood that this includes the protection of afflicted groups.¹⁵ Given the United States’ determination that genocide continues to occur in Xinjiang and the spirit of the Genocide Convention regarding protection for victimized groups, the U.S. should expedite the asylum applications of Uyghurs fleeing genocide in Xinjiang. The Responsibility to Protect (R2P) principle in international law holds States to the commitment to prevent mass atrocity crimes, including genocide, and protect all populations from risks related to their occurrence.¹⁶ The United States joined consensus in affirming the R2P principle at the 2005 U.N. World Summit. More recently, U.S. Undersecretary for Democracy, Human Rights, and Civilian Protection Uzra Zeya noted that the United States will continue to be a strong supporter of atrocity prevention (including genocide) through justice for the victims and survivors of atrocities through appropriate mechanisms.¹⁷

For these reasons, we believe that prioritization of the processing of Uyghur asylum applications through a group-based determination under 8 C.F.R. § 208.13(b)(2)(iii)(A) is both appropriate and necessary. We urge you to take such action.

Sincerely,



Elisa Massimino
Visiting Professor of Law
Executive Director, Human Rights Institute



Scott Busby
Distinguished Fellow
Human Rights Institute

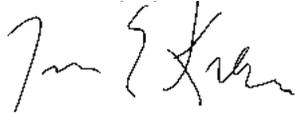
¹³ Press Release, Uyghur Hum. Rts. Project, UHRP Commends Canada for Progress on Uyghur Resettlement, Urges Concerned Governments to Consider Similar Measures (Feb. 1, 2023), <https://uhrp.org/statement/uhrp-commends-canada-for-progress-on-uyghur-resettlement-urges-concerned-governments-to-consider-similar-measures/>.

¹⁴ Convention on the Prevention and Punishment of the Crime of Genocide, Dec. 9, 1948, S. Exec. Doc. O, 81-1 (1949), 78 U.N.T.S. 277.

¹⁵ William A. Schabas, *Groups Protected by the Genocide Convention: Conflicting Interpretations from the International Criminal Tribunal for Rwanda*, 6 ILSA J. INTL. LAW 375, 375 (2000).

¹⁶ G.A. Res. 60/1, ¶138-40, U.N. Doc. A/RES/60/1 (Oct. 24, 2005).

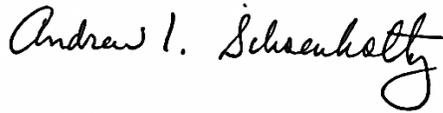
¹⁷ Uzra Zeya, Under Secretary for Civilian Security, Democracy, and Human Rights, *Under Secretary Zeya’s Remarks at Rohingya Genocide Remembrance Day Event*, U.S. DEP’T OF STATE (Aug. 25, 2023), <https://www.state.gov/under-secretary-zeyas-remarks-at-rohingya-genocide-remembrance-day-event/>.



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U.S. Citizenship
and Immigration
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May 28, 2024

Elisa Massimino
Visiting Professor of Law & Executive Director
Human Rights Institute
Georgetown Law
600 New Jersey Avenue NW
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Dear Ms. Massimino:

Thank you for your April 1, 2024 letter to the Department of Homeland Security (DHS). I am responding on behalf of the Department.

U.S. Citizenship and Immigration Services (USCIS) continues to adjudicate asylum applications as expeditiously as possible, taking into account that our Asylum Division staff are devoted to working on all asylum-related caseloads, including conducting protection screenings for persons apprehended at or near the border and adjudicating affirmative asylum applications for those Afghan nationals paroled into the United States under Operation Allies Welcome (OAW), as mandated by Congress and pursuant to a September 2023 OAW settlement agreement.¹

As part of our efforts to meet the continuously increasing workload demands of the Asylum Division, we are exploring a variety of ways to streamline case processing and may consider specific efforts that focus on increasing efficiencies in processing, interviews, and decision writing for certain populations and categories of asylum claims.

USCIS generally seeks to prioritize the most recently filed asylum applications when scheduling affirmative asylum interviews. At the same time, USCIS assigns some of its asylum officers to complete affirmative asylum applications pending in the backlog, starting with the oldest applications and working forward. This permits some of the oldest pending applications to be completed in chronological order.

¹ In April 2023, a class action lawsuit was filed against USCIS for allegedly failing to timely adjudicate asylum applications from the OAW population. In September 2023, USCIS reached a settlement agreement with plaintiffs that sets forth a timeline for adjudicating USCIS' OAW asylum caseload. See *Ahmed et al. v. U.S. Department of Homeland Security*, 4:23-cv-01892 (NDCA), available at <https://www.uscis.gov/sites/default/files/document/legal-docs/DKT103-2SettlementAgreement.pdf>.

USCIS currently does not expedite cases solely based on ethnicity or nationality, absent Congressional or Court mandate. Asylum office directors may consider, on a case-by-case basis, an urgent request to be scheduled for an interview outside of the priority order listed above. Applicants are encouraged to submit any urgent interview scheduling requests in writing to the asylum office with jurisdiction over their application.

Thank you again for your letter and interest in this important issue. Please share this response with the other individuals at Georgetown University who cosigned your letter. Should you require any additional assistance, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Ur M. Jaddou", followed by a long horizontal flourish.

Ur M. Jaddou
Director