

No. 08-1234

IN THE
Supreme Court of the United States

JAMAL KIYEMBA, *et al.*,

Petitioner,

—v.—

BARACK H. OBAMA, *et al.*,

Respondent.

ON WRIT OF CERTIORARI TO THE UNITED STATES
COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA

**BRIEF OF *AMICUS CURIAE*
UYGHUR AMERICAN ASSOCIATION
IN SUPPORT OF BRIEF OF PETITIONERS**

ROBERT ABRAHAMS
Counsel of Record
DANIEL L. GREENBERG
MARK S. MANDEL
JOHN G. MATEUS
SCHULTE ROTH & ZABEL LLP
919 Third Avenue
New York, New York 10022
(212) 756-2000

*Attorneys for Amicus Curiae
Uyghur American Association*

December 11, 2009

TABLE OF CONTENTS

	PAGE
TABLE OF CONTENTS.....	i
TABLE OF AUTHORITIES.....	ii
INTEREST OF AMICUS CURIAE	1
STATUTES AND REGULATIONS	3
SUMMARY OF ARGUMENT	3
ARGUMENT	5
A. The PRC’s Well-Documented Persecution of the Uyghurs	5
B. Returning the Uyghurs to China is Not an Option, according to the Political Branches of the United States Government	9
C. Practical Arrangements for Resettling Petitioners In the United States	14
CONCLUSION	19

TABLE OF AUTHORITIES

Cases	PAGE
<i>In re: Guantanamo Bay Detainee Litig., Civ. Action, No. 05-1509 (RMU) (D.D.C. July 2008)</i>	14, 16
<i>In re: Guantanamo Bay Detainee Litig., Civ. Action, No. 05-1509 (RMU) (D.D.C. July 21, 2008)</i>	14, 16
<i>In re: Guantanamo Bay Detainee Litig., Civ. Action, No. 05-1509 (RMU) (Oct. 7, 2008)</i>	12
Statutes	
8 U.S.C. § 1231(b)(3)(A)	12
H.R. Res. 461, 104th Cong. (1996).....	9
H.R. Res. 477, 108th Cong. (2003).....	9
H. R. Res. 497, 110th Cong. (2007)	9
H. R. Res. 608, 110th Cong. (2007)	9
H.R. Res. 1140, 110th Cong. (2008)	9
H.R. Res. 1370, 110th Cong. (2008)	9
S. Con. Res. 81, 106th Cong. (2000).....	9
S. Res. 574, 110th Cong. (2008).....	9

Other Authorities

- Matthew Barakat, *D.C. Uyghurs Wait to Take in Gitmo Detainees*, Associated Press (Oct. 10, 2008), http://www.usatoday.com/news/nation/2008-10-10-187008770_x.htm..... 15, 16
- Nora Boustany, *Rights Violators Know No Boundaries*, THE WASHINGTON POST, June 16, 1999, A25 8
- Chris Buckley, *China Accuses Dalai Lama of Taking Olympics Hostage*, Reuters, Mar. 23, 2008, <http://www.reuters.com/article/latestCrisis/idUSPEK342692> 10
- Convention Against Torture, Art. 3, opened for signature Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85..... 12
- Erick Eckholm, *U.S. Labeling of Group in China As Terrorist is Criticized*, N.Y. TIMES, Sept. 13, 2002, A3..... 11
- Falun Gong and China's Continuing War on Human Rights: Hearing Before the H. Int'l Relations Committee*, 109th Cong. 109-62 (2005) (statement of Gretchen Birkle, Acting Principle Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State), http://commdocs.house.gov/committees/intlrel/hfa22579.000/hfa22579_of.htm 10

	PAGE
Peter S. Goodman, <i>Oil Investors Tapped Out of Wells: China Order Private Drillers to Halt Desert Operation</i> , THE WASHINGTON POST, November 1, 2005, D1	6
Steve Hendrix, <i>D.C. Area Families Are Ready to Receive Uyghur Detainees</i> , WASHINGTON POST, Oct. 8, 2008, A08, http://www.washingtonpost.com/wp-dyn/content/article/2008/10/07/AR2008100702685.html	14-15
Human Rights Watch in China and Human Rights Watch, <i>Devastating Blows: Religious Repression of Uyghurs in Xinjiang</i> , 17 Human Rights Watch Series (C) Asia, No. 2, April 2005, http://www.hrw.org/reports/2005/china0405/china0405.pdf	4, 6, 7, 8
Mike Jendrzeczyk, <i>Condemning the Crackdown in Western China</i> , ASIAN WALL ST. J., Dec. 16, 2002.....	11-12
Shirley A. Kan, <i>U.S.-China Counterterrorism Cooperation: Issues for U.S. Policy</i> , CONGRESSIONAL RESEARCH SERVICE REPORTS, No. RL33001 (updated Sept. 2008), http://assets.opencrs.com/rpts/RL33001_20080911.pdf	6, 11, 12, 13

	PAGE
John Leicester, <i>China Calls for International Help in its Fight Against Muslim Separatists</i> , Associated Press, Oct. 11, 2001	11
Tim Luard, <i>China's Changing Views of Terrorism</i> , BBC News Online, Dec. 15, 2003 http://news.bbc.co.uk/2/hi/asia-pacific/3320347.stm	7, 11
Mark Mazzetti & John Hendren, <i>U.S. Quietly Exploring Alternatives to Guantanamo Bay</i> , L.A. TIMES, June 15, 2005	13
Navy Secretary Gordon England, <i>U.S. Dep't of Defense News Transcript— Defense Department Special Briefing on Combatant Status Review Tribunals</i> at 3 (Mar. 29, 2005), http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2504	13
Press Release: <i>UAA Celebrates Landmark Ruling on the Release of Seventeen Uyghurs from Guantanamo to the United States</i> , October 8, 2008, http://www.uhrp.org/articles/1461/1/-UAA-Celebrates-Landmark-Ruling-on-the-Release-of-Seventeen-Uyghurs-from-Guantanamo-to-the-United-States-/index.html	13-14
Elizabeth Rosenthal, <i>Defiant Chinese Muslims Keep Their Own Time</i> , N.Y. TIMES, Nov. 19, 2000, sec. 1, p. 3.....	7

	PAGE
U.S. Department of State, <i>China (includes Tibet, Hong Kong, and Macau)</i> , COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2004 (released Feb. 2005), http://www.state.gov/g/drl/rls/hrrpt/ 2004/41640.htm	10
U.S. Department of State, <i>Roundtable with Japanese Journalist</i> (Aug. 12, 2004), http://2001-2009.state.gov/secretary/ former/powell/remarks/35204.htm	13
Uyghur Human Rights Project, <i>Persecution of the Uyghurs in the Era of the “War on Terror”</i> , Oct. 16, 2007, http://uhrp.org/docs/Persecution_ of_Uyghurs_in_the_Era_of_the_ War_on_Terror.pdf	8, 11
Teresa Watanabe, <i>State Department Report on Persecution and Repression of Believers Globally Says U.S. Monitoring is a promising Tactic. Others See Talk but Little Action</i> , L.A. TIMES, Sept. 9, 2000, B2	6
Edward Wong, <i>Curbs Imposed on Muslims in Western China During Ramadan</i> , N.Y. TIMES, Sept. 8, 2008, A7	7

INTEREST OF AMICUS CURIAE¹

The Uyghur American Association (“UAA”) submits this brief as *amicus curiae* in support of Petitioners and in support of their Brief. The UAA is a tax-exempt, non-profit community membership organization organized under the United States Tax Code, Section 501(c)(3). The UAA, established in 1988, is based in Washington, D.C. and has approximately 600 members. Its mission is to promote the preservation and flourishing of a rich, humanistic and diverse Uyghur culture and to support the right of the Uyghur people to use peaceful, democratic means to determine their own political future. Under the auspices of the Uyghur Human Rights Project, the UAA also raises awareness of human rights abuses that occur in East Turkistan and promotes improved human rights conditions for Uyghurs and other indigenous groups in East Turkistan.

Ms. Rebiya Kadeer, a Uyghur herself, is the president of the UAA. She has earned numerous human rights awards for her work on behalf of the Uyghur Diaspora. The PRC persecuted and imprisoned Ms. Kadeer for her activism on behalf of the Uyghur people; the United States has since granted her refugee status. The UAA researches and produces articles, reports and educational materials regarding Uyghur issues, participates in seminars and lectures

¹ Pursuant to Supreme Court Rule 37, counsel of record for both parties have received timely notice of amicus intention to file this amicus curiae brief, and the parties have given their consent. No counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *Amici Curiae* or their counsel made a monetary contribution to its preparation or submission

to discuss oppression faced by Uyghurs, organizes demonstrations to protest against and raise awareness of the oppression and torture of Uyghurs throughout the world, offers resources to Uyghur political prisoners and refugees, lobbies the executive and legislative branches of the United States government to raise awareness regarding the plight of the Uyghur people, and undertakes a wide range of other activities relevant to its members and the Uyghur Diaspora.

The UAA's interest in this case arises from its commitment to successfully settling Uyghurs in the United States. The UAA has created a vast network of financial, educational, housing, medical, legal and other resources from both individuals and a variety of refugee, civic and religious organizations throughout the United States to develop a comprehensive short-term and long-term plan for resettling Petitioners within the United States. In information proffered to the district court regarding these arrangements, the UAA demonstrated the practical feasibility of either resettling petitioners here or providing supervisory conditions upon their release as the United States continues its interminable efforts to find a host country. UAA officers and members provided information contained in the proffer for the October 7, 2008 hearing and were present at the hearing or otherwise available to testify.

The UAA considers itself uniquely qualified to offer the Court guidance on the history of the Uyghur people and their oppression, the make-up and success of the Uyghur American community, and the practical ability of resettling Petitioners in the United States. The UAA's extensive lobbying

efforts have also informed it of political sentiment towards Petitioners. The information the UAA offers shows how the Uyghurs have a voluntary connection to the United States, are suitable for release into the general population, and there are suitable conditions present to successfully integrate Petitioners into American society.

STATUTES AND REGULATIONS

All applicable statutes and regulations are contained in Petitioners' Brief.

SUMMARY OF ARGUMENT

Petitioners are seven Uyghurs held at Guantanamo Bay for more nearly eight years after the United States military took custody of them in Pakistan; originally, there were seventeen Uyghur Petitioners, but the United States has relocated and released ten of those Uyghur Petitioners. The Government (i) has cleared all of the petitioners for release or transfer; (ii) has conceded that petitioners should not be treated as enemy combatants, (iii) has not charged them with any crime, and (iv) has not cross-examined or otherwise challenged any of the witnesses or evidenced proffered by petitioners regarding the practical arrangements in place for release and resettlement into the United States. International treaties, federal law, and the policy of the United States Department of State all prohibit their return to the People's Republic of China ("PRC") because of the considerable likelihood that they will be tortured or persecuted. Having previously labeled petitioners as enemy combatants and having maintained that they are unsuitable for release in the

United States, the Government is unable to find another country suitable for resettling them. The Uyghur-American community has primarily established itself in the nation's capital, where they have sought refuge from the PRC's oppressive crusade against the Uyghur people. Uyghurs have suffered years of oppression at the hands of the PRC—a government that has used the fight against trans-global terrorism as a pretext for continuing its oppressive crusade. The Uyghur community in Washington, D.C. is dedicated and experienced in resettling Uyghur refugees, and has established a comprehensive, long-term plan for resettling petitioners in the United States.

Section A discusses how the PRC has oppressed the Uyghur people. After living autonomously for centuries in Central Asia, the PRC took control of the Uyghur homeland to capitalize on oil reserves. The PRC has systematically oppressed the Uyghurs through deliberate displacement, religious discrimination, denial of government programs, mass arrests, torture, and public executions.

Section B details the United States' view of the PRC's human rights abuses against the Uyghurs. This section demonstrates that the political branches of the Federal Government are acutely aware of the PRC's manipulative and gross misconduct towards the Uyghur people. The political branches consider it impossible to return Petitioners to China because of the certainty that they will be tortured; some members of Congress have called for their release into the United States.

Section C introduces the Uyghur community in the Washington, D.C. area, and outlines the plan for resettling petitioners into the United States.

A tightly knit community with a diverse range of talent and knowledge, it has arranged a resettlement program that demonstrates a thorough and exhaustive understanding of the petitioners' needs upon being released. Drawing from the most experienced and qualified organizations and individuals, they have established a strategy for addressing both their immediate concerns and long-term issues associated with their resettlement.

Section D talks about the recent developments regarding the settling of Uyghurs released from Guantanamo in other countries.

ARGUMENT

A. The PRC's Well-Documented Persecution of the Uyghurs

The Uyghur (pronounced WEE-gur) people are an ethnic minority that lives in the rural north-western province of China known as East Turkistan, which is referred to by PRC as the Xinjiang Uyghur Auto-nomous Region. *In re Guantanamo Bay Detainee Litigl*, 581 F.Supp. 2d 33 (D.D.C. 2008) (hereafter "Opinion"); *see also* Human Rights in China (HRIC) and Human Rights Watch, *Devastating Blows: Religious Repression of Uyghurs in Xinjiang*, 17 HUMAN RIGHTS WATCH SERIES (C) ASIA, No. 2, at 1, 11 (2005) (hereafter *Devastating Blows*), available at http://www.hrw.org/reports/2005/china0405/china_0405.pdf.² (The term "Uyghur" can also be written Uyghur, Uygur, or Weigur, as there is no standardized spelling in English.) The Uyghurs share a similar ancestry to the people of Turkey.

² All internet sources last visited December 9, 2009.

See Devastating Blows at 11. Despite their Turkish roots, the Uyghurs have an established history in Xinjiang, dating back to the 7th Century. *Id.* at 9. Today, the Uyghur people number approximately 8 million. *Id.* at 10. Uyghurs practice a moderate form of Islam. *See* Shirley A. Kan, *U.S.-China Counterterrorism Cooperation: Issues for U.S. Policy*, CONGRESSIONAL RESEARCH SERVICE (CRS) REPORTS, No. RL33001, at 5 (updated Sept. 2008), *available at* http://assets.opencrs.com/rpts/RL33001_20080911.pdf (hereafter “*CRS Report*”).

Beginning in the early 1990s, China increased its attempts to assert greater power over the Uyghurs, which coincided with intensified repression. *See* Teresa Watanabe, *State Department Report on Persecution and Repression of Believers Globally Says U.S. Monitoring is a promising Tactic. Others See Talk but Little Action*, L.A. TIMES, Sept. 9, 2000, at B2. East Turkistan holds vast oil reserves. *Devastating Blows*, at 1. China estimates that by 2010, its largest source of oil could come from the Uyghur homeland. Peter S. Goodman, *Oil Investors Tapped Out of Wells: China Orders Private Drillers to Halt Desert Operations*, THE WASHINGTON POST, November 1, 2005, at D1. China has sought to nationalize those oil reserves, drawing the monetary benefits of the oil away from the local Uyghur entities and into the hands of the Han Chinese. *Id.*

Chinese repression of Uyghurs takes two forms: systematic suppression of Uyghur culture, and imprisonment with torture.

In their systematic repression, the PRC uses a variety of methods. The most glaring example of this is the plantation movement, where Han Chinese are

deliberately resettled in the Uyghur homeland of Xinjiang in order to oust the Uyghurs and dilute the concentration of Uyghurs in Xinjiang. Where Uyghurs once comprised 90% of the population of Xinjiang, now Han Chinese make up 50% of the population. *See* Tim Luard, *China's Changing Views of Terrorism*, BBC News Online, Dec. 15, 2003, at <http://news.bbc.co.uk/2/hi/asia-pacific/3320347.stm>. Despite being three time zones away from Beijing, Uyghurs are required to follow time in the capital, and not local time. *See* Elisabeth Rosenthal, *Defiant Chinese Muslims Keep Their Own Time*, N.Y. TIMES, Nov. 19, 2000, at sec. 1, p.3. The PRC has also cut funding for Mandarin-language education for Uyghurs; the result is that Uyghurs are increasingly excluded from the workforce, especially government jobs, in favor of native-speaking Chinese.

The Uyghurs have also been denied the freedom to practice Islam. Official observances of Ramadan are banned, and government workers are restricted from observing Ramadan entirely; retired government workers are prohibited from entering mosques. *See* Edward Wong, *Curbs Imposed on Muslims in Western China During Ramadan*, N.Y. TIMES, Sept. 8, 2008, at A7 (hereafter "*Curbs Imposed*"). Religious schools have been shut down. *Devastating Blows*, at 13. In some areas, Uyghurs may not even observe Islamic tenets regarding their appearance: men are barred from growing beards and women from wearing veils. *Curbs Imposed*, at A7. Imams are required to attend patriotic education courses and to demonstrate ideological conformity with the Communist party. *Devastating Blows*, at 30. Even simple events such as public meetings are forbidden in some Uyghur neighborhoods. *Curbs Imposed*, at A7.

Uyghur groups, such as those led by Rebiya Kadeer, have protested the Chinese cultural oppression as a denial of human rights. These movements are met with swift and violent responses by the PRC. For example, in February 1997, Uyghurs held a demonstration against the repression of their cultural and religious identity. While the protest was peaceful, the Chinese government's response was not. Police put down the protest by shooting unarmed demonstrators, which ignited a three-day riot that left nine people dead and hundreds injured. *Devastating Blows*, at 13.

The second form of Uyghur repression is imprisonment and torture. In 1998 alone, over 200,000 Uyghurs were imprisoned without trial, and 3,500 were executed. *See* Nora Boustany, *Rights Violators Know No Boundaries*, THE WASHINGTON POST, June 16, 1999, A25. These mass arrests often culminate with public executions. *See CRS Report*, at 6 (executions held before rally of 20,000); *see also Persecution of the Uyghurs in the Era of the "War on Terror,"* UHRP and UAA Reports, at 4 (Oct. 2007), at http://uhrp.org/docs/Persecution_of_Uyghurs_in_the_Era_of_the_War_on_Terror.pdf (hereafter *Persecution of Uyghurs*) (citing sources). In one security sweep in 2005, over 700 Uyghurs were arrested. *Persecution of Uyghurs*, at 5. After arrest, these Uyghurs have been subjected to a catalogue of tortures, such as: inserting of wires and horsehair into the penis; dousing prisoners with pepper and chili powder in the mouth, nose, and genitals; exposing prisoners to extreme heat and cold; using electric batons on inmates; regular beatings; chemical injections causing loss of bodily control; shackling prisoners in painful positions; cigarette

burns; submerging prisoners into water and sewage; and deprivation of sleep, food, and water. *Id.*

B. Returning the Uyghurs to China is Not an Option, according to the Political Branches of the United States Government

The United States Congress has continuously condemned the oppression of the Uyghurs since the 1990s. In 1996, the House condemned the religious repression of Uyghurs in Xinjiang. *See* H.R. Res. 461, 104th Cong. (1996) (Passed by House June 27, 1996). In 2000, both the Senate and House passed a concurrent resolution calling for the release of then-imprisoned Ms. Kadeer. *See* S. Con. Res. 81, 106th Cong. (2000) (Passed by both House and Senate July 24, 2000). In 2003, a bill was again introduced in the House calling for Ms. Kadeer's release. *See* H.R. Res. 477, 108th Cong. (2003) (Introduced in House December 8, 2003). In 2007, two House bills were introduced condemning the oppression of the Uyghurs. *See* H. R. Res. 497, 110th Cong. (2007) (Introduced in House June 19, 2007); H. R. Res. 608, 110th Cong. (2007) (Introduced in House August 2, 2007). Just last year, the Senate and House have introduced three resolutions condemning human rights abuses of the Uyghurs by the PRC. *See* H.R. Res. 1370, 110th Cong. (2008) (Introduced in House July 23, 2008); S. Res. 574, 110th Cong. (2008) (Introduced in Senate May 22, 2008); H.R. Res. 1140, 110th Cong. (2008) (Introduced in House April 23, 2008).

Likewise, the United States has also condemned the PRC's manipulation of the war on terror to further Uyghur oppression. The Department of State has taken note of the PRC's strategy of using the fight against terrorism as a pretext to oppress

independent Muslim religious leaders and “peaceful political dissent” by Uyghur separatists. See U.S. Department of State, *China (includes Tibet, Hong Kong, and Macau)*, COUNTRY REPORTS ON HUMAN RIGHTS PRACTICES 2004 (released Feb. 2005), at <http://www.state.gov/g/drl/rls/hrrpt/2004/41640.htm>. In 2005, the House also heard testimony before the Committee on International Relations regarding this manipulation. *Falun Gong and China's Continuing War on Human Rights: Hearing Before the H. Int'l Relations Committee*, 109th Cong. 109-62 (2005) (statement of Gretchen Birkle, Acting Principle Deputy Assistant Secretary, Bureau of Democracy, Human Rights and Labor, U.S. Department of State), available at http://commdocs.house.gov/committees/intlrel/hfa22579.000/hfa22579_of.htm. In 2007, the House passed a resolution also acknowledging that the PRC deliberately manipulated the fight against trans-national terrorism to further oppress the Uyghurs. See H. R. Res. 497, 110th Cong. (2007) (Passed by House June 19, 2007). The PRC has even accused the Dalai Lama of colluding with Uyghur separatist groups to carry out terrorist attacks on China. See Chris Buckley, *China Accuses Dalai Lama of Taking Olympics Hostage*, Reuters, Mar. 23, 2008, at <http://www.reuters.com/article/latestCrisis/idUSPEK342692>.

Yet despite the fact the PRC now declares Uyghur separatists as terrorists, this was not always the case. As has been reported to Congress, before September 11th, 2001, the Chinese government made a strict distinction between Uyghurs and terrorists. Although the PRC has long held that separatism is an “evil force,” it was one of three distinct evil forces the PRC named, separate and distinguished from both “terrorism” and “extremism.”

See CRS Report, at 5. Terrorism was never before equated with Uyghur separatism before September 11th, 2001; in fact, despite Uyghur separatist movements in Xinjiang, earlier in 2001 the Communist Party Secretary flatly stated that Xinjiang was not a place of terror. *See Persecution of Uyghurs*, at 1-2. Exactly one month after the attacks of September 11, 2001, however, China began to conflate the Uyghurs with terrorists, and to make unsubstantiated claims that the Uyghurs were in league with Al Qaeda and the Taliban. *See Erik Eckholm, U.S. Labeling of Group in China As Terrorist is Criticized*, N.Y. TIMES, Sept. 13, 2002, at A3. On October 11th, 2001, the PRC proclaimed ties between the Uyghurs and undefined “international terrorists.” *See John Leicester, China Calls for International help in its Fight Against Muslim Separatists*, Associated Press, Oct. 11, 2001. In November 2001, China further declared that the former “separatists” were now “international terrorists.” *Persecution of Uyghurs*, at 2. The label “East Turkestan terrorist forces” was applied to any Uyghur separatist activity. *Devastating Blows*, at 15. Although the U.S. Department of State designated the so-called East Turkestan Islamic Movement (“ETIM”) as a terrorist organization in 2004, the most recent report to Congress confirms that there are serious concerns regarding the credibility of the sources linking ETIM to al Qaeda and the Taliban. *See CRS Report*, at 7-10; *see also* Tim Luard, *China’s Changing Views of Terrorism*, BBC News Online, Dec. 15, 2003, at <http://news.bbc.co.uk/2/hi/asia-pacific/3320347.stm>; Erik Eckholm, *U.S. Labeling of Group in China As Terrorist is Criticized*, N.Y. TIMES, Sept. 13, 2002, at A3; Mike Jendrzeczyk, Editorial, *Condemning the Crackdown in Western*

China, ASIAN WALL ST. J., Dec. 16, 2002 (“[T]he Bush administration is now increasingly concerned about China’s diplomatic offensive, as Beijing uses the U.S. decision on ETIM to justify a broad crack-down on peaceful Uyghur dissent and Muslim religious activities—a crackdown that long predates September 11.”). In its opinion, the district court found that there is no factual basis for finding that the current detainees ever had any contact with the Taliban. Opinion, J.A. 1601. What is more, there is absolutely no evidence that the Uyghurs or Uyghur separatists have any animosity towards the United States.

As a signatory to the Convention Against Torture, (which the Senate has ratified) the United States cannot transfer individuals to countries where there are “substantial grounds for believing that [they] would be in danger of being subjected to torture.” Convention Against Torture, Art. 3, opened for signature Dec. 10, 1984, S. Treaty Doc. No. 100-20 (1988), 1465 U.N.T.S. 85 (noting that reasonable grounds include “the existence in the State concerned of a consistent pattern of gross, flagrant or mass violations of human rights”); *see also* 8 U.S.C. § 1231(b)(3)(A). The political branches have made clear that returning Petitioners to China is not an option; in fact, the Government conceded this very point to the district court. *See* Transcript, Motion/ Status Hearing—Uyghur Cases, *In re: Guantanamo Bay Detainee Litig.*, Civ. Action No. 05-1509 (RMU) (D.D.C. Oct. 7, 2008) (hereafter “Proffer Hearing”), J.A. 1542 (“[T]heir own home country is one that U.S. policy prevents us from returning them to force—forcibly because of humanitarian concerns.”).

In August 2004 Secretary of State Colin Powell stated, “The Uighurs [sic] are a difficult problem, and we are trying to resolve all issues with respect to all detainees at Guantánamo. The Uighurs [sic] are not going back to China.” U.S. Department of State, *Roundtable with Japanese Journalist* (Aug. 12, 2004), available at <http://20012009.state.gov/secretary/former/powell/remarks/35204.htm>. The following year, Navy Secretary Gordon England confirmed “we have Uyghurs [sic] from China that we have not returned to China because of concerns and issues about returning them to their country.” Navy Secretary Gordon England, *U.S. Dep’t of Defense News Transcript—Defense Department Special Briefing on Combatant Status Review Tribunals* at 3 (Mar. 29, 2005), available at <http://www.defense.gov/transcripts/transcript.aspx?transcriptid=2504>; see also Mark Mazzetti & John Hendren, *U.S. Quietly Exploring Alternatives to Guantanamo Bay*, L.A. TIMES, June 15, 2005 (“The repatriation of nearly two dozen ethnic Uyghurs from China detained at Guantanamo Bay has been held up because of State Department concerns that the Uyghurs [sic] might be tortured or killed after being turned over to Chinese custody.”) In fact, in September 2008, the Chairman of the House Foreign Affairs Subcommittee on International Organizations, Human Rights, and Oversight, along with the Ranking Member of that subcommittee, have both called for the transfer and release of petitioners into the United States. See *CRS Report*, at 13 and n.50. Notably, none of the twenty-two Uyghurs detained at Guantanamo were captured fighting American forces; most were actually captured by third party bounty hunters, and delivered to American forces. Press Release: *UAA Celebrates Landmark Ruling*

on the Release of Seventeen Uyghurs from Guantanamo to the United States, October 8, 2008, available at <http://www.uhrp.org/articles/1461/1-UAA-Celebrates-Landmark-Ruling-on-the-Release-of-Seventeen-Uyghurs-from-Guantanamo-to-the-United-States-/index.html>.

C. Practical Arrangements for Resettling Petitioners In the United States

Petitioners should be released in the United States where the Uyghur American community is eager to provide the necessary support they will need to resettle here. Uyghurs in America have followed closely the circumstances of petitioners. Decl. of Rebiya Kadeer, President, UAA, In re: Guantanamo Bay Detainee Litig., Civ. Action No. 05-1509, ¶ 11 (RMU) (D.D.C. July 2008) (hereafter “Kadeer Decl.”). There is “widespread sympathy” throughout the American Uyghur community for petitioners. *See* Decl. of Alim Seytoff, Gen. Sec’y of the UAA, In re: Guantanamo Bay Detainee Litig., Civ. Action No. 05-1509 (RMU) (D.D.C. July 21, 2008) (hereafter “Seytoff Decl.”); Kadeer Decl. ¶ 13. This sympathy is shared by Uyghurs who live and work in Washington, D.C. *See* Steve Hendrix, *D.C. Area Families Are Ready to Receive Uyghur Detainees*, WASHINGTON POST, Oct. 8, 2008, at A08 (hereafter “*D.C. Area Families*”), available at <http://www.washingtonpost.com/wp-dyn/content/article/2008/10/07/AR2008100702685.html>. With approximately 300 Uyghur Americans living and working in the nation’s capital, the D.C. area has the largest concentration of Uyghurs in America. *See* Petitioner’s Proffer Re: Available Services and Support for Resettlement in the United States. Proffer Hearing, J.A. 1471. The UAA is based in Washington, D.C. Like the

United States, the UAA believes that the Uyghur people, who are described as “staunchly pro-American,” should be able to determine their political future through democratic means.

The Washington, D.C. Uyghur community first began in the 1980s when students settled in the area. *See D.C. Area Families*, at A08. In the mid-1990s, coinciding with the collapse of the Soviet Union, the number of asylum seekers increased. *Id.* Most Uyghurs have settled in the Virginia suburbs of Washington, D.C., which is populated with several mosques, such as the Virginia Islamic Center. Uyghurs come to the United States like many ethnic groups before them: to escape persecution and to pursue a better way of life. *See* Matthew Barakat, *D.C. Uyghurs Wait to Take in Gitmo Detainees*, Associated Press (Oct. 10, 2008), *available at* http://www.usatoday.com/news/nation/2008-10-10-187008770_x.htm, (hereafter “*D.C. Uyghurs*”). Uyghurs in Washington, D.C. have become a successful part of American life, working as chemical engineers, lawyers, small business entrepreneurs, tradesmen, and information technology specialists. *See D.C. Area Families*, at A08; *see also D.C. Uyghurs*. Overall, Uyghur refugees who settle in the Washington, D.C. area are college educated and are drawn to the area because of the ability to remain active in Uyghur human rights issues. *See D.C. Area Families*, at A08.³

The Uyghur-American network is extremely successful at integrating newly arrived Uyghurs into the American way of life; UAA President Ms. Kadeer is

³ Indeed, the Uyghur prisoners who have been relocated to Albania, Sweden, Bermuda, and Palau have experienced no difficulties in integrating into the respective societies.

herself was a beneficiary of such a network. *See* Kadeer Decl. ¶ 14 (noting that she was “welcomed and supported by members of the Uyghur American community” upon her arrival). The Uyghur American community has routinely helped new refugees with becoming comfortable and a part of our country. *Id.* Indeed, Uyghurs have one of the highest U.S. approval rates for asylum seekers. *See D.C. Uyghurs*. “The Uyghur American community is ready, willing, and able to provide support to any Uyghurs who are released from Guantanamo to America,” including “logistical support with regard to language, cultural, and religious matters.” *See* Seytoff Decl.; *see also* Kadeer Decl. ¶ 14.

The community has ready stepped up to offer both temporary and permanent help to Petitioners, including offers of “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.” *See* Seytoff Decl.. Indeed, seventeen Uyghur American families in the Washington, D.C. area have committed to providing immediate housing and support for Petitioners to help them meet any supervisory conditions imposed upon their release or as part of a bridge to more permanent resettlement arrangements that have been made. *See* Proffer, J.A. 1471, 1532.

There is also a substantial, experienced, and well-funded refugee network ready to work on resettling Petitioners in the United States. In their Proffer, Petitioners named three people who were ready to testify regarding specific long-term resettlement services that have been arranged for Petitioners. *See* Proffer, J.A. 1469-1472. Kent Spriggs was one

such person. An attorney experienced in working with Guantanamo detainees, Mr. Spriggs also is a member of a steering committee in Tallahassee, Florida faith-based communities that are experienced in resettling refugees. *Id.* at 1470. Mr. Spriggs' committee has committed to resettling three Uyghur detainees in the United States, and has developed a comprehensive plan to that effect. *Id.* at 1470, 1527-1531. The plan utilizes various religious organizations and covers every conceivable issue that would affect Petitioners, such as monetary aid, spiritual services, housing and furnishings, vocational opportunities and legal issues concerning such, transportation, medical care, mental health care, language instruction, and general social integration. *Id.* at 1527-1531.

Another such person was Susan Krehbiel, Vice President of Lutheran Immigration and Refugee Services ("LIRS") in Baltimore, Maryland. *See* Proffer, J.A. 1469. LIRS is a contractor with the United States Department of State's Office of Refugee Settlement. *Id.* at 1470. Her organization has helped both refugees and immigrants for nearly 70 years, and has helped to resettle more than 300,000 people, including more than 7,000 in 2008 alone. *Id.* The LIRS Refugee Co-Sponsorship Manual was included as an Exhibit to the Proffer. *Id.* at 1474-1524. This 50-page manual details everything from navigating the immigration and refugee process to specific practical advice for how a co-sponsor should prepare their home and family for the arrival of a sponsee. *Id.*

Finally, the Proffer stated that the Center for Constitutional Rights has identified a donor of substantial means who is willing to establish an

appropriate 501(c)(3) account to provide funds for resettling the refugees. *Id.* at 1471-1472. The Government never challenged any aspect of the Proffer, nor sought to cross-examine any of the witnesses who were available to testify in connection with the Proffer. *See* Proffer Hearing, J.A. 1584.

CONCLUSION

Having persecuted the Uyghurs for decades, the PRC successfully continued that campaign by manipulating the war on terror following September 11, 2001. Uyghurs seeking to flee this persecution have been welcomed by a sympathetic United States, where a dedicated and resourceful community of Uyghurs has thrived in the nation's capital. Petitioners should be released in the United States, where patriotic Uyghur-Americans have resourcefully established a comprehensive resettlement plan that includes individuals and a variety of organizations well-suited to meet the Petitioners' needs. We therefore support the Brief of Petitioners.

Dated: New York, New York
December 11, 2009

Respectfully submitted,

ROBERT ABRAHAMS

Counsel of Record

DANIEL L GREENBERG

MARK S. MANDEL

JOHN G. MATEUS

SCHULTE ROTH & ZABEL LLP

919 Third Avenue

New York, New York 10022

(212) 756-2000

Counsel for Amicus Curiae

Uyghur American Association