

To: Metropolitan Police Counter Terrorism Command (SO15)

(Sent by email)

13 February 2023

URGENT: Request to arrest Mr Erkin Tuniyaz on charges of torture under section 134 of the Criminal Justice Act 1988

We act for the East Turkistan Government in Exile (ETGE) and countless Uyghur victims. We have submitted a request on behalf of our clients at the International Criminal Court (ICC) to open an investigation into the alleged genocide and crimes against humanity committed by Chinese officials against Uyghur victims over which the Court has jurisdiction. We have included witness statements and other evidence in support of our submission. Our request is currently being reviewed and considered by the ICC Prosecutor.¹

We write to you now on an urgent basis, as we understand that one of the key suspects, Mr Erkin Tuniyaz, arrived in the UK on Sunday on a planned trip to meet FCDO officials this week. Mr Tuniyaz is the current Chairman (governor) of Xinjiang, and Chair of the Standing Committee of the CCP Xinjiang Regional Committee.

This letter serves as a formal request on behalf of our clients to investigate and arrest Mr Tuniyaz on charges of torture including conspiracy to torture under s.134 of the Criminal Justice Act 1988.

Mr Tuniyaz was appointed Vice Chairman of Xinjiang, and member of the Standing Committee of the CCP Xinjiang Regional Committee in January 2008. He had worked in this capacity from that date until September 2021, when he was promoted to his current role.

¹ See Marlise Simons, 'Uighur Exiles Push for Court Case Accusing China of Genocide', New York Times (<https://www.nytimes.com/2020/07/06/world/asia/china-xinjiang-uyghur-court.html>, 6 July 2020); The Economist, 'Uyghur groups want to take China to the International Criminal Court' (<https://www.economist.com/china/2021/06/10/uyghur-groups-want-to-take-china-to-the-international-criminal-court>, 10 June 2021); Helen Davidson, 'Chinese agents operating abroad to get Uyghurs deported, ICC told', the Guardian (<https://www.theguardian.com/world/2021/nov/11/chinese-agents-operating-abroad-to-get-uyghurs-deported-icc-told>, 11 November 2021); and, Asim Kashgarian, 'ICC Urged to Investigate China's Treatment of Uyghurs', VOA News (<https://www.voanews.com/a/icc-urged-to-investigate-china-s-treatment-of-uyghurs/6630740.html>, 23 June 2022).

The background to this request is the widespread and systematic detention and torture of millions of Uyghurs in internment camps and prisons in East Turkistan ('Xinjiang'), planned and controlled by officials at the highest levels of the CCP.

As set out below, the United Nations and several bodies have found that there is credible evidence of torture being committed in detention camps in East Turkistan. Having heard evidence over several months, the Uyghur Tribunal sitting in London concluded that it was *"satisfied beyond reasonable doubt that torture has been inflicted throughout the period leading up to 2021, by or at the instigation of, or with the consent or acquiescence of, public officials or other persons acting in official capacities of the PRC and/or CCP"*.²

The acts of torture

There is a wealth of evidence of torture being perpetrated within the internment camps.

The UN³ and multiple reports from NGOs⁴ indicate that there is considerable credible evidence that torture has occurred in these camps. One of these reports, from Amnesty International, containing evidence from over 50 victims, and a government official who had arrested Uyghurs en-masse, summarised the torture methods as including: *"beatings, electric shocks, stress positions, the unlawful use of restraints (including being locked in a tiger chair), sleep deprivation, being hung from a wall, being subjected to extremely cold temperatures, and solitary confinement."*⁵ All of the victims interviewed by Amnesty International for the report were said to have been subjected to torture or other cruel, inhuman, or degrading treatment or punishment during their internment.

Another category of torture is the enforced, non-consensual, sterilisations and other measures, such as forcible fitting of IUDs, and enforced abortions, to lower the birth-

² Uyghur Tribunal Judgment as delivered at Church House Westminster on 9 December 2021 (<https://uyghurtribunal.com/wp-content/uploads/2022/09/UYGHUR-TRIBUNAL-Judgment-2022.09.20.pdf>) at [166]

³ OHCHR Assessment of human rights concerns in the Xinjiang Uyghur Autonomous Region, People's Republic of China (<https://www.ohchr.org/sites/default/files/documents/countries/2022-08-31/22-08-31-final-assesment.pdf>, 31 August 2022), pp.21-25

⁴ Amnesty International, "Like we were enemies in a war", China's Mass Internment, Torture and Persecution of Muslims in Xinjiang' (https://xinjiang.amnesty.org/wp-content/uploads/2021/06/ASA_17_4137-2021_Full_report_ENG.pdf, June 2021); Human Rights Watch, "Eradicating Ideological Viruses": China's Campaign of Repression Against Xinjiang's Muslims' (<https://www.hrw.org/report/2018/09/09/eradicating-ideological-viruses/chinascampaign-repression-against-xinjiangs>, 9 September 2018). We would be willing to provide further such reports upon request.

⁵ Amnesty International, "Like we were enemies in a war", China's Mass Internment, Torture and Persecution of Muslims in Xinjiang' (https://xinjiang.amnesty.org/wp-content/uploads/2021/06/ASA_17_4137-2021_Full_report_ENG.pdf, June 2021)

rate of Uyghurs and other Turkic peoples.⁶ The UN Special Rapporteur on Torture has classified enforced sterilisation and other forms of birth control as constituting torture: “Forced sterilization is an act of violence and a form of social control, and violates a person’s right to be free from torture and ill-treatment”.⁷ Women are threatened with detention in internment camps if they refuse to be subject to birth control.⁸ In the camps, there is no choice but to submit to the birth control measures, which regularly lead to lifelong health complications.⁹ These measures, like other persecutory measures aimed at Uyghurs, are meticulously planned from the top down, including “performance targets” for numbers of sterilisations in each prefecture.¹⁰

There are numerous witnesses available to you who now live abroad (including in the UK) and who would be able to be called in any prosecution of Mr Tuniyaz. There are also many expert witnesses who can assist in the investigation and prosecution. As noted above, we have collected such witness statements and expert reports which can all be made available to you.

The widespread torture in the camps is not incidental to the top-level planning of the internment camps, but central to it. The evidence of witnesses who have escaped from camps detailing the use of tiger chairs to commit torture matches the Chinese police’s own training documentation, which includes a photograph of a man being interrogated in a tiger chair.¹¹

⁶ Adrian Zenz, ‘Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang’ (<https://jamestown.org/wp-content/uploads/2020/06/Zenz-Sterilizations-IUDs-and-Mandatory-Birth-Control-FINAL-27June.pdf?x47371>, 29 June 2020), p.1; Amie Ferris-Rotman, ‘Abortions, IUDs and sexual humiliation: Muslim women who fled China for Kazakhstan recount ordeals’, the Washington Post (https://www.washingtonpost.com/world/asia_pacific/abortions-iuds-and-sexual-humiliation-muslim-women-who-fled-china-for-kazakhstan-recount-ordeals/2019/10/04/551c2658-cfd2-11e9-a620-0a91656d7db6_story.html, 5 October 2019)

⁷ UN General Assembly, Human Rights Council, A/HRC/31/57, ‘Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment’ (<https://www.reproductiverights.org/sites/default/files/documents/SR%20on%20Torture%20Report.pdf>, 5 January 2016)

⁸ Adrian Zenz, ‘Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang’ (<https://jamestown.org/wp-content/uploads/2020/06/Zenz-Sterilizations-IUDs-and-Mandatory-Birth-Control-FINAL-27June.pdf?x47371>, 29 June 2020), p.1

⁹ Radio Free Asia, Uyghur Women, Rarely Informed About Forced Birth Control Procedures, Suffer Lifelong Complications (<https://www.rfa.org/english/news/uyghur/women-08032020140148.html>, 3 August 2020)

¹⁰ Adrian Zenz, ‘Sterilizations, IUDs, and Mandatory Birth Control: The CCP’s Campaign to Suppress Uyghur Birthrates in Xinjiang’ (<https://jamestown.org/wp-content/uploads/2020/06/Zenz-Sterilizations-IUDs-and-Mandatory-Birth-Control-FINAL-27June.pdf?x47371>, 29 June 2020), p.18, pp.21-24

¹¹ Tekes Detention Center Security Drills, Xinjiang Police Files (<https://www.xinjiangpolicefiles.org/tekes-detention-center-security-drills/>, image said to be from 2018, published May 2022)

The criminal responsibility of Mr Tuniyaz for torture

There is compelling evidence of Mr Tuniyaz's individual criminal responsibility for the widespread acts of torture.

It is noted that the definition of "torture" in section 134 of the Criminal Justice Act 1988 includes the ancillary offences of "*counselling, procuring, commanding and aiding or abetting acts of torture and of being an accessory before or after the fact to such acts*": *R v Bow Street Metropolitan Stipendiary Magistrate And Others, Ex Parte Pinochet Ugarte (No. 3)* [2000] 1 AC 147 at 236.

At all material times Mr Tuniyaz was Vice Chairman or Chairman of Xinjiang. He was at all material times a member, and later Chair, of the CCP Xinjiang Regional Committee. This Committee represents the political leadership body in Xinjiang with around 15 members at any one time. This Committee was instrumental in directing the drafting and approval of the legislation which legalised the internment camps in 2017 and its revision in 2018, alongside the Standing Committee of the Xinjiang People's Congress.¹²

Evidence of such political control from the CCP Xinjiang Regional Committee includes a quotation from Qin Wei, Director of the Legislative Affairs Commission of the Standing Committee of the XUAR People's Congress. When discussing the review of the preliminary draft of the Regulations, he stated that both the national CCP Central Committee and the CCP Xinjiang Regional Committee "*attach great importance to the work of de-extremification*" and that both had proposed "*a series of major deployments and decisions*".¹³

The 2018 revision again was drafted with the full input of the same Committee: "*Relevant leaders of the Party Committee of the Autonomous Region, relevant leaders of the Standing Committee of the XUAR People's Congress and relevant comrades of the Legislative Affairs Commission made a special trip to the Legislative Work Commission of the Standing Committee of the National People's Congress [in Beijing] to report on the revision*" [relevant Committee underlined].¹⁴

Mr Tuniyaz himself has openly defended and justified the internment camps.¹⁵ In his

¹² Adrian Zenz, 'Evidence of the Chinese Central Government's Knowledge of and Involvement in Xinjiang's Re-Education Internment Campaign', China Brief Volume: 21 Issue: 18 (<https://jamestown.org/program/evidence-of-the-chinese-central-governments-knowledge-of-and-involvement-in-xinjiangs-re-education-internment-campaign/>, 14 September 2021)

¹³ Ibid., pp.9-10

¹⁴ Ibid., p.10

¹⁵ Alisha Rahman Sarkar, "China appoints new governor for Xinjiang known for defending Uyghur

political capacity set out above, he has exercised control over the planning and running of the internment camps. Because torture is not incidental but rather is a fundamental part of the operation of the camps, there can be no doubt that Mr Tuniyaz has agreed that a course of conduct shall be pursued which in accordance with his intentions has necessarily amounted to the commission of the crime of torture.

No official immunity

Article 1 of the UN Convention Against Torture (UNCAT), ratified by China on 4 October 1988, states as follows:

“Article 1

1. For the purposes of this Convention, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does not include pain or suffering arising only from, inherent in or incidental to lawful sanctions.

2. This article is without prejudice to any international instrument or national legislation which does or may contain provisions of wider application.”

Section 134 of the Criminal Justice Act 1988, which created a new offence of torture in line with the definition set out above, states:

“A public official or person acting in an official capacity, whatever his nationality, commits the offence of torture if in the United Kingdom or elsewhere he intentionally inflicts severe pain or suffering on another in the performance or purported performance of his official duties.”

Mr Tuniyaz falls within the definition of a public official under Article 1 of UNCAT. Accordingly, because China has ratified UNCAT, Mr Tuniyaz does not hold any position for which immunity may apply, and because of the *jus cogens* nature of the prohibition against torture, an international crime in the highest sense, Mr Tuniyaz has no immunity in this matter: *R v Bow Street Metropolitan Stipendiary Magistrate And Others, Ex Parte Pinochet Ugarte (No. 3)* [2000] 1 AC 147 at 248 and 267.

policies” (<https://www.independent.co.uk/asia/china/china-xinjiang-governor-uyghurs-ccp-b1930616.html>, 1 October 2021)

Conclusion

The arrival into the United Kingdom of Mr Tuniyaz provides an unprecedented opportunity to bring to justice one of the central architects of the system of internment and torture which has faced millions of Uyghurs and other Turkic people. We urge SO15 to act swiftly, upon investigating the matter, to arrest Mr Tuniyaz on charges of torture, the evidence for his involvement in which is submitted to be compelling.

We, and our clients, are available immediately to meet with you, and provide any further evidence for your consideration.

We look forward to your urgent reply.

Yours faithfully,



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