

OPEN FORUM ON HUMAN RIGHTS AND RULE OF LAW IN CHINA

ROUNDTABLE

BEFORE THE

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED EIGHTH CONGRESS

FIRST SESSION

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OPEN FORUM ON HUMAN RIGHTS AND RULE OF LAW IN CHINA

MONDAY, SEPTEMBER 8, 2003

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The roundtable was convened, pursuant to notice, at 2:30 p.m., in room 2200, Rayburn House Office Building, John Foarde [staff director] presiding.

Mr. FOARDE. On this beautiful fall afternoon, we do not have as many of our staff colleagues as we like. I am sure that some will come along in the next few minutes to join us.

But on behalf of Congressman Jim Leach of Iowa, the chairman of the Congressional-Executive Commission on China [CECC], and our co-chairman, Senator Chuck Hagel of Nebraska, as well as the individual Commission members, I would like to welcome all of you, and particularly our four panelists, to this issues roundtable of the CECC.

Today's roundtable is conducted in the "Open Forum" format. We try to do this once or twice a year to permit people who have things to say about issues in our mandate on human rights and on the rule of law in China the opportunity to speak for about 5 minutes, offer us a written statement for the record, and then, as we do with our other roundtables, and also hearings, have a chance for us to ask questions and hear answers from the individual speakers.

We have four speakers today representing a variety of points of view and issues. I will introduce them all, and then individually before they speak. We will let you go for about 4 minutes, then I will tell you that there is 1 minute left. That is your signal to wrap up your presentation.

Inevitably, it is hard to say everything that you want to say in 5 minutes, because it is not a very long time. But we will try to give you the opportunity during the question and answer period to catch up any of the issues that you wanted to mention and did not have the opportunity in your main statement.

Our speakers this afternoon are Mr. Kaiser Seyet from the Uighur American Association, Ms. Terri Marsh, a human rights attorney, Mr. Timothy Cooper from Worldrights, and our old friend Huang Ciping from the Wei Jingsheng Foundation, who had travel problems this afternoon and is probably not going to be able to join us in person, but a colleague is going to read her statement for her into the record. We welcome you and thank you for doing that.

Let us go right to the statements then. We normally work wall to window, so we will ask Mr. Kaiser Seyet from the Uighur American Association to begin, please.

**STATEMENT OF KAISER SEYET, THE UIGHUR AMERICAN
ASSOCIATION, WOODBRIDGE, VA**

Mr. SEYET. Thank you very much. Good afternoon, ladies and gentlemen. Thanks for the opportunity to speak on behalf of the Uighur community in the United States.

My topic today is "Escalating Refoulement of Uighur Refugees." The Uighur American Association is deeply concerned about the rising number of peaceful Uighur dissidents being returned to the People's Republic of China [PRC] from other countries.

Although media attention has raised concerns about the deportation of Tibetan refugees from Nepal and caused governments to act, no such attention has been paid to the escalating phenomena of peaceful dissidents being returned from Central Asian states and Pakistan under pressure from the Chinese Government.

Before the formation of the Shanghai Cooperation Organization [SCO] Chinese diplomats would bring accusations of criminal wrongdoing against Uighur refugees and seek their deportation. Wanted posters in Chinese and the local language were posted on the streets in many cities.

The pressure employed against the refugees and their place of refuge can be summed up with this excerpt from a 1996 internal Chinese Communist Party document.

Limit the activities of outside ethnic separatist activities from many sides. Bear in mind the fact that Turkey, Kazakhstan, and Kyrgyzstan are the home bases for the activities of outside separatist forces. Through diplomacy, urge these countries to limit and weaken the activities of separatist forces inside their border. Take full advantage of political superiority to further develop the bilateral friendly cooperation with these countries. At the same time, always maintain pressure on them. Considering the ethnic separatism activities outside the border, carry out all necessary dialog and struggle. Strengthen the investigation and study outside of the border. Collection information on the related development directions of events, and be especially vigilant against and prevent, by all means, the outside separatist forces from making the so-called "Eastern Turkestan" problem international.

The Chinese Communist Party Central Committee Document Central Committee (1996) No. 7. Record of the Meeting of the Standing Committee of the Political Bureau of the Chinese Communist Party concerning the maintenance of Stability in Xinjiang.

When the SCO was formed, official contacts started in the Central Asian war on terrorism. At that point, the campaign against "East Turkestan separatists" had not been internationalized, but dissidents quietly continued to be arrested and returned to face imprisonment, torture, even death, just for leaving the People's Republic of China.

After the events of September 11, 2001, and the beginning of the U.S. war on terrorism, Chinese Government officials began to equate the peaceful expression of thought with terrorism. In many official Chinese Government statements, terrorism, and separatism appear side by side as crimes to be fought.

The criminalization of peaceful ideas is not condoned by the U.S. Constitution, nor any international body or agreement, yet such a tactic is used to repress dissidents in countries that neighbor the

People's Republic of China. The entire process should be viewed as an extension of the Chinese Government police state.

The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment provides that "no State Party shall expel, return ("refouler"), or extradite a person to another state where there are substantial grounds for believing that he would be in danger of being subjected to torture."

The Uighur American Association recommends that the U.S. Government, in its official dealings with Central Asian states, including Pakistan, Nepal, Kazakhstan, and Kyrgyzstan, reinforce the ideal of the rule of law, namely the principle of non-refoulement with regard to people escaping persecution and oppression from the People's Republic of China; raise concerns about the treatment of refugees and their rights as guaranteed under the Universal Declaration of Human Rights; raise the issue for forced repatriations, the abuse of human and civil rights before the proper U.N. bodies; and press for meaningful reform and change within the People's Republic of China such that so many do not feel compelled to flee their homeland.

Thank you very much.

[The prepared statement of Mr. Seyet appears in the appendix.]

Mr. FOARDE. Thank you very much for your statement.

Next, we would like to hear from Ms. Terri Marsh, a human rights attorney. I understand you are here representing Falun Gong.

Ms. MARSH. Yes.

Mr. FOARDE. Please.

STATEMENT OF TERRI MARSH, HUMAN RIGHTS ATTORNEY, WASHINGTON, DC

Ms. MARSH. Thank you. Thank you for having me here.

The talk is entitled, "The Rule By Law in China Today" and its impact on Falun Gong.

According to Jerome Cohen in his "The Plight of the Criminal Defense Lawyers" presented to this Commission on July 26, 2002, China's entire criminal process is in need of radical reform.

In his view, "A radical, long-run political restructuring would be necessary to bring the PRC's criminal process into compliance with even minimal international standards."

A cursory look at Professor Jerome Cohen's piece allows us to see that there are basically two problems that he identified. On the one hand, he notes how the practice of criminal law in China itself violates the body of law, that is, the Constitution, the penal code, prison law, police law, and so on.

One example would be that interrogation of arrested persons and torture is, of course, prohibited by both the Constitution in China and by police law, and nonetheless it is fairly commonplace in China for persons who have been arrested, and most notably Falun Gong practitioners, to be tortured.

On the other hand, and in addition to the violation of Chinese law, the People's Republic of China typically promulgates administrative orders, notices, regulations, explanations, and the like which create exceptions to the already drafted rules of law.

These exceptions put disfavored classes—for example, Falun Gong—at a disadvantage for securing the rights the state acknowledges that they have. Again, examples abound. I welcome you to look at the printed copy of my statement.

Just to mention one, which is supported by a handout that is outside. Falun Gong practitioners are denied access to legal counsel by an announcement which was promulgated by the Judicial Bureau of Beijing City. There are lots more examples, some of which I will turn to in a few moments.

These two types of defects in China are highlighted, although not in reference to China per se, by Ronald Dworkin in his landmark book, “A Matter of Principle,” in chapter 2, where he distinguishes between two conceptions of the rule of law, both of which are conspicuously absent in China.

The rule-book conception, and I am just going to read you a quote from Dworkin at this point, insists that

The power of the state not be exercised against individual citizens except in accordance with rules which are explicitly set out in a public rule-book, which is, of course, available to everyone.

The government, as well as ordinary citizens must play by these rules until they are changed in accordance with further rules about how they ought to be changed, which is also to be set forth in the rule-book.

This narrow conception is not concerned with substantive justice, but rather with rules.

There is a second formulation also highlighted by Ronald Dworkin in chapter 2 of “A Matter of Principle.” The second formulation permits us to further evaluate state law to see if it is consistent with minimal international standards of law, but more importantly it allows us to distinguish, for example, between a rule of law, and then the rules promulgated, for example, by the Nazis during World War II.

This latter formulation additionally illustrates how, in fact, what is packaged in China as a rule of law is in fact a rule by law.

I will just give you some examples in China of how this works. For example, in terms of promulgation of orders, notices, and what-not which create exceptions which prevent people from benefiting from the existing law, we know that by order of former President Jiang, the police arrested Falun Gong practitioners in April 1999 without any legal basis.

Then the former president himself defined the crimes retroactively by trying to persuade the French newspaper, Figaro, that Falun Gong is, indeed, an evil cult.

Then in October, the legislative branch passed out the infamous anti-cult law to legitimate the illegal arrests by outlawing Falun Gong.

Finally, the Supreme People’s Court, instead of ruling on cases, expounds on the nature of Falun Gong by issuing a notice declaring, at the behest of Jiang, that Falun Gong is indeed an evil cult. So we can see from this that Falun Gong practitioners are guilty prior to their trials.

I guess I should apologize a little bit for failure to utilize my time well.

[The prepared statement of Ms. Marsh appears in the appendix.]

Mr. FOARDE. That is all right. We can come back to other points that you have during the question and answers.

Next, let us call on Mr. Timothy Cooper from Worldrights. Perhaps you would tell us a little bit about your organization as you get started. It is very interesting. Thank you.

**STATEMENT OF TIMOTHY COOPER, WORLDRIGHTS,
WASHINGTON, DC**

Mr. COOPER. I will, indeed. I want to express my appreciation to the Commission for allowing non-governmental organizations [NGOs] to come before it to testify on critical issues of human rights in China.

I am representing here today the family of Dr. Wang Bingzhang, who was recently sentenced to life imprisonment in China on charges of espionage and terrorism. They extend their appreciation to this Commission and wish that, in fact, they could be here to testify.

Dr. Wang Bingzhang is known as the father of the overseas democracy movement. He has been associated with it, in fact pioneered it, some 20 years ago. He was trained as a lung surgeon. He studied at McGill University, earned his Ph.D. there in coronary arterial research. He decided not to practice medicine, and famously stated that "medicine can only cure a few patients, but cannot cure the disease of a nation."

He ventured into Vietnam in June 2002, to meet with a number of labor leaders associated with the ever-rising labor movement inside China. He went there to, in effect, try to make a marriage, a union if you will, between the pro-democracy movement and the labor movement inside China, to marry the head of the democracy movement with the body politic of the labor movement, a reasonable strategy in light of the need to amplify the numbers committed to the pro-democracy movement in China.

Once in Vietnam, he did, in fact, meet with a labor leader in the town of Mongcai, which is on the border of Vietnam and China. After that meeting was complete, they noticed that they were being followed.

They went back to their hotel to retrieve their baggage so that they could depart that area of the country as soon as possible. They were, at that point, accosted in the hotel lobby by plainclothes Vietnamese police—or people who posed as Vietnamese police—and were taken into a van under false pretenses.

They were told they were being taken to the police station in Mongcai, but in fact were taken to the outskirts of town, to the Beilun River, which cuts between China and Vietnam, where a boat was waiting for them.

They were beaten, particularly Dr. Wang Bingzhang, taken on board this boat, and taken over to the China side where they were met by an entirely new group of individuals, about 10 men.

There had been about 10 men in the lobby, most of whom spoke Vietnamese, 2 of whom spoke Chinese, most interestingly. They were greeted by this new set of people.

It was noted that one of the original captors had a picture of Dr. Wang Bingzhang in his possession that he proudly showed to the

others to confirm Dr. Wang Bingzhang's identification, and they were handed over to this new group.

They were then blindfolded, bound, and taken to a hotel for about a week where a \$10 million ransom was demanded of the three Chinese dissidents. No stranger idea, I think, could be put out there than a kidnapper demanding such a high ransom from Chinese dissidents. If one is associated in any way with the Chinese democracy movement, one understands clearly that it is virtually penniless.

Having no money, the dissidents offered the contact numbers, their cell phone numbers, for their family and relations back in America, France, and elsewhere. Those individuals were never contacted.

About a week later, the new captors took them to a temple, bound, still gagged, and left them. Mysteriously, several minutes later, the Chinese police arrived and said, "We are here, we are rescuing you." But instead they were immediately detained. They were never released. In fact, from that point on, they met a new form of detention.

They were then held incommunicado for about 5½ months while the Chinese Government emphatically denied that they had any information whatsoever about their whereabouts.

Finally, Yue Wu and Zhang Qi were released, but Dr. Wang Bingzhang was put on trial for espionage and for terrorism.

He has denied his association with any of those activities. He declared himself wholly innocent. In fact, when the United Nations' Arbitrary Detention Committee looked at this case, they came to the same conclusion, that the Chinese Government had offered no proof whatsoever that Dr. Wang was associated in any way with either espionage or terrorism.

Indeed, the U.N. Working Group on Arbitrary Detention declared that the Chinese Government had arbitrarily detained these individuals, that the detention was a violation of international norms, and that Dr. Wang Bingzhang should be released.

Speaking on behalf of the family, we implore the U.S. Congress to pass a joint resolution on his behalf. It is high time that the United States stood behind a man who has committed most of his adult life, certainly the best years of his life, to the cause of human rights and democracy in China. We would simply ask that the Congress look at this issue and determine its resolve, and pass a resolution on his behalf. Thank you.

[The prepared statement of Mr. Cooper appears in the appendix.]

Mr. FOARDE. Thank you very much, Mr. Cooper.

Our friend and frequent contributor to our open forums, Ms. Huang Ciping, cannot be with us because of travel problems, so her colleague is going to read her statement.

But would you introduce yourself for the record, please?

STATEMENT OF HUANG CIPING, GIVEN BY WEI WU, THE WEI JINGSHENG FOUNDATION, WASHINGTON, DC

Mr. WU. Yes. Ladies and gentlemen. I am speaking on a statement of Huang Ciping on behalf of the Wei Jingsheng Foundation and the Independent Federation of Chinese Students and Scholars.

The topic of the speech is “No Press Freedom in China After SARS.”

Early last spring, the Chinese press got unexpected world attention because of SARS. World opinion had increased hope for Chinese press freedom. The sad reality is that China has not gained more press freedom since SARS.

In June 2003, the Chinese Communist Party criticized more than 10 newspapers and magazines. Afterward, some sensitive articles had to be killed before publishing. The prohibited topics included SARS, the North Korean nuclear crisis, the nuclear submarine explosion, and the Zhou Zhengyi corruption case in Shanghai.

Also, in the summer the government clearly stated prohibition to discuss certain issues, such as modifying the Constitution, political reforms, and the 1989 Tiananmen democracy movement.

China has a long way to go toward real press freedom. The root of the problem lies in the system, which has been there for over half a century under the CCP rule. The following facts are some of our highest concerns.

First, there is no real private press in China and no independent journalism under the one party system of the CCP. The registration of a publication is very complicated. The government, at any time, can easily crush a newspaper if it violates government regulations, or just displeases some officials.

Second, Internet censorship. In China, many Web sites are blocked. The government has over 300,000 Internet police, 50,000 of them work directly for the National Security Department.

Liu Di, a Chinese college student, has been detained for months because of some essays she published in a chat room. One-third of all foreign mails went through inspections beyond even targeted mails, and phone tapping is public knowledge in China.

Third, brave journalists and liberal editors often get in trouble, and some are put in prison just because they report the truth or speak from conscience. In fact, Chinese journalists are the direct victims under the Chinese Communist rules. Many of them have lost their freedoms, or even lives.

Fourth, to survive, one must speak the Party’s tongue. Keep the same tongue with the Party, is the first rule for all Chinese journalists.

Fifth, China has been reported to be the second worst country for freedom of press and speech. The biased, misleading, even false information serves only the Chinese Government’s agenda. On sensitive issues, only the government has the right to decide if the news can be made public.

Sixth, the Chinese people do not trust the news if it is presented by the Chinese Government. Chinese people do not have faith in the Chinese Government. They know that their government cheats. Chinese people usually rely on the BBC, Voice of America, Radio Free Asia, or other overseas media.

Finally, foreign investment and Internet will not bring free press to China. On one hand, many argue that foreign investment will bring freedom, including freedom of the press to China. On the other hand, the Chinese Government pointed out that the news media is a special enterprise that does not allow the rule of “who invests in it owns it.”

The government specifically stated that the news media is a State enterprise which applies to all newspapers. A similar idea applies to the Internet. The Internet and advanced computer technology has become the tool for government monitoring and suppression of dissent.

It is a shame that U.S. companies such as Yahoo! cooperate voluntarily with the Chinese Government. It is more a shame for Western companies to work closely with the Chinese Government to create the "Golden Shield" which helped make the Chinese Government policing of the Internet the best in the world.

Here, we urge the freedom- and democracy-loving American people and the U.S. Congress to examine these issues and to prevent moneymaking deals when the price is the Chinese people's human rights and freedom.

[The prepared statement of Ms. Huang Ciping appears in the appendix.]

Mr. FOARDE. Thank you very much, Mr. Wu Wei, on behalf of Huang Ciping.

Thanks to our other panelists this afternoon. It is very important for the Commission, and the Commission staff, particularly, to get to know people who are working on human rights issues for prominent NGOs and to hear the information that you have, and the arguments that you have put together.

So, having an open forum like this is particularly useful. The transcript of it is widely circulated among the commissioners, and we appreciate your spending the time not only to come this afternoon, but to prepare.

I am going to give you just a minute to catch your breath while I mention a couple of administrative matters.

Our next major public event of the full Commission is a hearing on September 24 entitled, "Is China Playing By the Rules: Free Trade, Fair Trade and WTO Compliance." This hearing will look into the commercial rule of law and WTO compliance part of our mandate.

The hearing will be on Wednesday, the 24th at 10:30 a.m. in the Dirksen Senate Office Building, Room 419. Chairman Jim Leach will preside.

In addition, on Monday, September 22 at 2:30 p.m., we will have an issues roundtable on "Internet Freedom and Free Flow of Electronic Information in China." I do not have a room to tell you yet, but please continue to consult the CECC Web site at www.cecc.gov. On the Web site, you can sign up for our mailing list if you want to get e-mails with these announcements from us.

Also, our statute requires that we file a report on the activities of the Commission and on human rights and the development of the rule of law in China every year. The report, formally, is due on October 9 every year, but for reasons of scheduling we try to release it a little earlier than that.

Again, this year, we hope to release it at a press conference on October 2, which I believe is a Wednesday, right? Yes, a Wednesday. Again, I do not have a room for you yet, but we are working on that. We will make a public announcement about the availability of the annual report.

Of course, it will be available in PDF format on our Web site for you to download freely during the year if you should need it again.

I would like to go now to the question and answer session and allow each of our speakers to amplify their thoughts a little bit, and perhaps answer some questions I have jotted down here while listening to your testimony.

Perhaps I would start with Mr. Kaiser Seyet, please. Can you give me an idea for the record of the amount of cross-border travel that there is between the Xinjiang area where Uighurs mostly live and the surrounding countries?

For example, some of the ones that you mentioned. Is it a common thing, in other words, for people legally and normally to cross borders to trade, or to visit family? Does that happen?

Mr. SEYET. It is not very common. All cross-border visits are for business, for travel, or to see friends or family. This is all controlled by the Chinese Government.

Mr. FOARDE. So if you were a Uighur and you wanted to travel across border to one of the neighboring countries to, say, trade, you would need to get an exit permit, is that what you are saying, from the Chinese Government?

Mr. SEYET. Yes. You would have to have a passport and exit permit.

Mr. FOARDE. So the Chinese Government can restrict the numbers of passports that are issued, for example, to Chinese nationals of Uighur nationality, and also control the exit permits.

Mr. SEYET. Yes. Recently, the Chinese Government published that they made it easier for people to apply for passports and exit permits, but they have special rules and laws for the Uighur minority to get passports.

For most people, if you are under 40, it is very hard to get a passport across borders. Usually, from what I know, to get a passport usually takes 2 years from application to approval.

During these 2 years, the Chinese Government is going to check your background, if you have had any political problem or any other problems against the government, or anything.

Mr. FOARDE. Would the same questions be asked of a Chinese national of the Han nationality who might be living in Xinjiang Uighur Autonomous Region?

Mr. SEYET. I do not think they have the same problem because the separatism and terrorism campaign only focuses on the Uighur nationality. I do not think the Chinese people have as hard a problem as the Uighurs.

Mr. FOARDE. So at least as far as you know, if a Han person wished to get a passport and an exit permit to visit a neighboring country for trade, that would also be much easier than it would be for a Uighur, is that correct?

Mr. SEYET. Yes.

Mr. FOARDE. All right.

Do you or your organization have any specific evidence of specific Uighurs that have been sent back from neighboring countries after they had gone across the border to ask for political asylum or shelter, or refuge of any sort?

Mr. SEYET. Yes, sir. We contacted some people who returned from Kazakhstan, Kyrgyzstan, and Pakistan, and also Amnesty

International reported such things documented on their Web site that we can provide to you.

Mr. FOARDE. So you have names and places? That would be very useful for us to have that information. If you could provide it, it would be very, very useful.

Mr. SEYET. I will.

Mr. FOARDE. Can you give me an idea, generally, what happens to people when they are brought back to China after having been expelled from the country that they have gone to?

Mr. SEYET. Usually they are held in a private, very secret place. Nobody knows what jail they are in. The Chinese authorities do not inform their relatives or friends. They torture them and ask what they did outside China.

Mr. FOARDE. But, again, do you have specific reports of that sort of behavior happening?

Mr. SEYET. Yes.

Mr. FOARDE. All right. We would be interested in seeing that as well.

Mr. SEYET. Also, Amnesty International has a report on the torture, and some of them are sentenced to death. Some disappear without any information. We do not know if they are alive or dead.

Mr. FOARDE. And their families have not been in touch with them. Have they been able to get legal representation, as far as you know?

Mr. SEYET. I do not think they can get legal representation.

Mr. FOARDE. No lawyers, you think.

Mr. SEYET. No.

Mr. FOARDE. This is, unfortunately, not an unusual practice.

Let me ask a couple of final questions. Did the people that you are knowledgeable about who went home after being expelled forcibly from the third country, did they try to apply formally for asylum in the third country or did they try to contact the U.N. High Commissioner for Refugees when they were abroad?

Mr. SEYET. Some of them applied in the third country for asylum. Some of them applied to the U.N. High Commissioner for Refugees. During this time, there was intense pressure from economic and political forces in central Asian countries, those central Asian governments helped transfer those people who were requesting asylum.

So, from 1999, most Uighur people thought they could seek asylum in Pakistan, India, Kazakhstan, or Kyrgyzstan, but because of Chinese Government pressure, all of them were handed over to the Chinese Government and they were brought back to China.

Uighur refugees do not ask for U.N. help because that takes a lot of time. In those neighboring countries they do not have status, they do not have a source of income. So, the Chinese Government finds it very easy to find them and take them back to China. Also, those countries are helping the Chinese Government to send them back to China.

Mr. FOARDE. Let me ask a final question. You mentioned in your statement the Shanghai Cooperation Organization. We are all very interested in this group and how it may be operating in practice across a broad array of issues, not just the human rights issues that we are interested in in the Commission.

But do you have any evidence that there are formal agreements that have been reached between the Chinese Government and the governments of the neighboring countries that are part of the SCO, under that umbrella, to automatically send back potential asylum seekers to China?

Mr. SEYET. On the SCO, they have contacts. When they formed the SCO, they say it is to address economic, political, and other border issues. They especially mentioned whether those countries were going to stand against terrorism and separatism? They are required to send over people and give the names to the Chinese Government, and their country can give them back names of terrorists. So, there is like a cooperation.

Mr. FOARDE. At least there is a statement about cooperation.

Mr. SEYET. Yes, a statement.

Mr. FOARDE. But do I understand you to say that, as far as you know, there is no formal agreement between the Chinese Government and any other government on this, no formal treaty or other bilateral agreement, just the statements that have been in public, SCO documents?

Mr. SEYET. I think there are statements in SCO documents.

Mr. FOARDE. Thank you very much. That is very useful.

Let me turn to Mr. Cooper, if you do not mind. Dr. Wang Bingzhang's case, of course, has been a case of great concern to the Commission and to our commissioners. I think when you see our forthcoming annual report, you will see a serious discussion of his case.

But I have some questions, just for the record, that will help us with facts. When did Dr. Wang leave China? Did he emigrate to Canada directly, or how did that work?

Mr. COOPER. Yes, that is correct. I think he left at the end of the 1970s and emigrated, as you say, to Canada, and then went to New York shortly thereafter in 1982, I believe. 1981, 1982.

Mr. FOARDE. Other than the circumstances of the kidnapping, detention, and subsequent arrest and trial of Dr. Wang, is there any hard evidence that the PRC authorities were informed in advance of the plans of Dr. Wang and his confreres to go to this place and consult with the labor leaders? Is there any evidence that somebody leaked that information?

Mr. COOPER. Well, I think there is certainly evidence that somebody leaked that information by virtue of the fact that he ended up being accosted in a hotel room and carted across the border river into China. How that happened, I do not think we will ever be able to say with a 100 percent degree of certainty.

I think it is fair to say, however, that in light of the unholy terror that an alliance such as the one that I described between the labor movement and the pro-democracy movement would have been struck in the minds of Chinese authorities, I think they would have stopped at virtually nothing to put a stop to the incipency of that idea, that endeavor.

Mr. FOARDE. You anticipated my third question, which is basically, why would the PRC go to so much trouble for a small group of dissidents? I think the answer is that it is potentially a much larger group. In fact, I think it is correct to say that one of the things that worried the Party and government structure in the

spring of 1989 was that you had this potential marriage between intellectuals, students, and workers.

Mr. COOPER. That is right.

Mr. FOARDE. The only other part of the equation that makes the Chinese authorities even more anxious, I guess is the polite word to use, is when you have religious groups involved as well.

Mr. COOPER. We have had ample witness of it in recent years, I am afraid to say.

Mr. FOARDE. I assume, and we have all assumed, that the plainclothes men that detained Dr. Wang and his group in Vietnam and got them across the border were security agents of some sort. But is there any formal evidence of that? I mean, anybody declaring themselves or showing an ID card, or anything like that?

Mr. COOPER. Yes. We have looked at that as closely as we can. All we can say for certain, is that two of the members of that security force in plainclothes spoke with Chinese accents, one Mandarin and another provincial accent right across the border. So, that is as close as we can say that they were linked to China.

But I think it is sufficient to say that that group then took them to the Chinese group of captors within 15, 20 minutes, and that the boat was waiting for them, that the van was outside the hotel, and there was an elaborate planning process through which this kidnapping occurred.

That took a degree of planning and sophistication that I think required sufficient funds and ample intelligence to suggest, as the ultimate life imprisonment of Wang Bingzhang rightly suggests, that there was a commitment on the part of the Chinese authorities to get this man, to bring him into China, and then to secure his confinement for here and ever after.

Mr. FOARDE. Do you have any sense that the type of meetings that Dr. Wang was having, or trying to have, along the border there with PRC-based activists, whether they be labor or other types of activists, is fairly common? In other words, is that happening a lot? There would be a group, in other words, conceivably of security agents paying special attention to the border area for that reason?

Mr. COOPER. Not to my knowledge. This was, I think, a rarified example of cutting-edge activism. I do know that there have been cases of cross-border kidnappings in Korea in the northern areas, but this was the first time, to my understanding, that a Chinese dissident had ever been taken from a third country and carted back into China.

Mr. FOARDE. My understanding is that there is a fair amount of cross-border kidnapping for ransom, but it is a purely criminal conduct or enterprise, not related to anybody's political beliefs.

Mr. COOPER. Yes. Hence, the idea that there might be perceived to be some legitimacy in describing those actions as kidnapping. But the fact remains, no family member was ever contacted about a ransom demand. That, I think, dispels that theory.

Mr. FOARDE. This is the first time that I personally had ever heard of any activities by overseas-based democracy activists trying to work through Vietnam to have this sort of contact with people based in the PRC. So, I agree that there is not much evidence that it is common.

All that suggests that there was a leak of some sort, and this was kind of an organized, state security operation to grab these people, snatch them, and take them across the border into someplace where they could be put into police custody.

Mr. COOPER. To say it succinctly, I think he was sold out and set up. I think that's the only explanation for how this came about in such a calculated and efficient manner.

Mr. FOARDE. One thing that I wondered a bit about the U.N. Special Rapporteur's report, is whether they were privy to any formal PRC court documents or transcripts in making their decision.

Mr. COOPER. Yes. That is an interesting question. Not to my knowledge. I have seen the material that the PRC sent to the Arbitrary Detention Committee, and there was no information about that.

Mr. FOARDE. There was just a formal response, not a copy of a court transcript or anything.

Mr. COOPER. A formal response from the Chinese Embassy, I think, in Geneva, the Chinese mission in Geneva. It is possible there is a deeper layer there that I did not see, but I can say that I have no knowledge of it.

Mr. FOARDE. It is probably a good conclusion no matter what, but it would be interesting to know if they had based that conclusion on anything else.

Mr. COOPER. Have you seen the rapporteur's report?

Mr. FOARDE. Yes. Yes.

Mr. COOPER. All right. You have seen it.

Mr. FOARDE. I have not read it personally word for word.

Mr. COOPER. I have copies of it if you need it.

Mr. FOARDE. I have skimmed it. We have been studying it very carefully at the staff level at the Commission.

Mr. COOPER. All right. Very good. Thank you.

Mr. FOARDE. This is very useful. We are all looking at what we might do for Dr. Wang. Just one last question. What is Dr. Wang's nationality at the moment?

Mr. COOPER. Well, that may be an area of legal contention and concern. I think it is safe to say that he is a permanent U.S. resident.

Mr. FOARDE. So he has a green card.

Mr. COOPER. Right.

Mr. FOARDE. Meaning his nationality stays as PRC, but he has permanent residence in the United States.

Mr. COOPER. That is correct.

Mr. FOARDE. Well, as you know, as somebody who used to do this as both a consular officer and a diplomat for the United States abroad, the legal basis for making representations about detainees is much stronger when it is your own national and when both countries are parties to either a bilateral consular convention or the Vienna Convention on Consular Relations.

It is more difficult when the detainee is a permanent resident, but still retains the nationality of another country, for example, in this case, China. But there is a moral basis on which to ask for help, and particularly when family members and relatives are U.S. citizens.

The State Department frequently goes in and says, "Look, we recognize that this man is not our national and that we may not

have a legal right to have access to him or to demand anything under the Vienna Convention. But he is a long-time permanent resident, he has friends, family, and relatives who are U.S. citizens.”

There is a relationship, and therefore we feel we have good cause to ask about his whereabouts and ask for access, and the other things that you might ask for for a citizen. I think that has been done in the case of Dr. Wang, unfortunately not successfully. But, very useful. All right.

Let me go on to Ms. Marsh. First, a comment, then a question. Your initial presentation talked very eloquently about the problem of the Chinese authorities violating the PRC law and Constitution, as well as international human rights standards and norms.

I just wanted to comment that this theme is something that you will see woven throughout our forthcoming annual report, because it is, at a high level of abstraction, one of the chief problems from a rule of law point of view.

In many cases, the PRC has good laws, sometimes state-of-the-art laws. But, on the one hand, the ability of individuals to enforce their rights is very limited, if present at all. At the other level, the authorities frequently just ignore, look the other way, or have the exceptions that you talked about carved out of these things.

I would like to ask a question that you alluded to a little bit, but it would be useful to have your views on it in a broader way.

What, in your mind, accounts for the virulence of the PRC Government’s reaction against Falun Gong since, let us say, April 1999?

Ms. MARSH. That is actually not an easy question to answer. I have certainly heard lots of explanations from various people closer to the situation than I. My sense is that the principles upon which Falun Gong is based—those are compassion, truthfulness, and forbearance—I think probably, especially the compassion, are very much at odds with the need for the PRC to control the population through the state-run media, the propaganda machines.

There are all sorts of ways, some of which were certainly mentioned in my talk, that China uses to control the people in China. You cannot control people who prefer compassion, truthfulness, and tolerance to advancing up the political ladder.

You cannot control people who are willing to be arrested and tortured. My understanding is, from the study I have done of the Cultural Revolution, of Tiananmen, and then this, is that if Mao Zedong starts the Cultural Revolution and somebody did not like it, no matter high up he was—and there are many examples—they were just arrested and tortured. So, many high-ranking officials of the Communist Party were tortured. They are not alive any more. There are so many in house detention.

So, to me, it was just not possible for Jiang Zemin and the Communist Party to maintain control over China with all these people liberating themselves with these noble principles.

And it is sad, because these are the principles, to me, that are really constitutive of our humanity. These are the best that we can be. So to see those principles trampled upon because of a need to control people, it is very sad.

Mr. FOARDE. Is it not also true that, at least in the early 1990s, there was both formal and tacit government support for Falun Gong.

Ms. MARSH. Absolutely. Absolutely.

Mr. FOARDE. And a great number of government officials, members of the People's Liberation Army, and what have you, were practitioners of Falun Gong at some level?

Ms. MARSH. Yes. It was so popular. I mean, that is what is so amazing to me, is that members of the Politburo, Jiang Zemin's family.

I mean, everybody—this is what I have been told—was practicing Falun Gong, because it is based on ancient traditions of China, the gigong practice. It comes from an ancient cultivation practice and it really resonates in China. So, everybody was practicing it.

There were awards given to Li Hongzhi, the different Chinese research societies were constantly acclaiming his books, they were the most popular books being read in China. Everybody was out there in the morning doing the exercises.

In fact, for about 2 years—1997 to 1999—Jiang Zemin, who I think almost single-handedly started this persecution, although it certainly garnered support from elsewhere, told the Public Security Bureau to investigate Falun Gong, thinking that doing so would produce what he wanted. They did an enormous investigation and they said, "No, there is nothing wrong. They are fine. They do not break the law, they do not do this. . . ."

So, it was popular. Through the ordinary sort of legal channels, Jiang could not stop it. That is why I think you had so many exceptions and all these notices and administrative orders, and so on and so forth.

Mr. FOARDE. So do I understand you to say that, as far as you know, the investigation into Falun Gong by the senior Chinese leadership predated the March 1999 demonstration?

Ms. MARSH. Absolutely. Jiang Zemin had 2 years in which he was trying, through legitimate channels, to stop and stifle Falun Gong, and it did not work. Then he gave a speech in April 1999 before the Politburo and basically just said, "This is what is going to happen. We are going to get rid of Falun Gong, because they are a threat." He connected them to the West and to the United States, and all this kind of silly language. People opposed him.

And I do not know these Chinese names, but the Premier [Zhu Rongji], I think, himself was totally on the other side, and met with the practitioners and said, "Do not worry, this is not going to happen, you are not going to be banned."

But then Jiang Zemin, I think he had some high-ranking person in the Chinese Communist Party arrested and tortured badly. Then all of a sudden the Premier became silent and everybody became quiet because of memories of the Cultural Revolution. I mean, there is fear. I wonder myself, how would I fare under torture?

Mr. FOARDE. It is a very difficult question. Certainly if you look at any of the harrowing, but great books that have been written about Cultural Revolution experiences, it is very difficult for me as an individual, and I am sure a great many people, to understand how you would tolerate such treatment. It is very difficult.

Let me ask you. If the particular anti-Falun Gong campaign was associated with Jiang Zemin, is there any reason to believe that the new leaders that have now arisen and been installed by the Party would either have less interest in a very aggressive persecution of Falun Gong, or possibly even would see the campaign as something that belongs to the old regime and try to back away from it?

Is there any hope of that?

Ms. MARSH. That is also a very difficult question and I am hardly an expert on politics in China. But it seems to me that it is conceivable that, if we could find a face-saving way to stop the persecution—I mean, the United States would have to play an active role in this—in which we could somehow approach the new regime and not force them to retract everything, because they are probably not prepared to do that, but find some way to just kind of stop talking about it. Just, let us stop talking about it and just let the people out, and so on, and so forth. That is a possibility.

But my worry or my concern is, Jiang Zemin is still powerful. There is so much inter-political—I mean, I am reading the “Tiananmen Papers” now, and it is just so complicated as to who is what and who is on which side, and so on. Jiang still does exert some power.

So, I think there needs to be some waning of his power, and perhaps that will happen. I know he is not popular with the Chinese people, but that does not seem to matter.

Mr. FOARDE. So it is hard to say whether or not there is any hope.

Ms. MARSH. It is hard for me to say. There might be persons wiser than me who can say. But I know that I was personally trying to talk to some of the aides in Congress. Again, this was about 6 months ago. Senator Biden’s chief aide, and I think he was also Senator Kerry’s aide.

I was suggesting that we might at least look into a face-saving way to stop the persecution, because obviously face-saving is so important in China. To have to say, “Well, we made a mistake,” I think that might be expecting too much.

Mr. FOARDE. Or we did it because the Americans forced us to do it.

Ms. MARSH. Right. Something. Very, very sorry. Something to save face, but to stop it. I did file this lawsuit against former President Jiang and against quite a few other officials, so I am very close to the details of the persecution.

It is very hard to know completely with your heart, your mind, and your soul to know that this is going on every single day, every single minute of the day, and just go about your business. It is hard. It is very hard.

Mr. FOARDE. Thank you so much. This is very useful.

Ms. MARSH. Thank you.

Mr. FOARDE. Let me turn to a question or two to Mr. Wu Wei. Again, I do not want to put you on the spot because I know you are standing in for Ms. Huang. So, if you do not feel comfortable answering a question, by all means tell me and we will save it for her for the next time, because I am sure we will be seeing her frequently, as we always do.

But I did want to go back into the themes in the statement about SARS and about the lack of freedom of the press, and how that in many ways exacerbated the seriousness of the SARS crisis last spring.

Some medical experts say that SARS may, in fact, come back this fall. There is even more concern because, just in the last couple of weeks, local authorities in several places in Guangdong have permitted the sale, again, of civets and other animals that have been associated with new and different types of retroviruses, including the SARS virus.

So my question really is, given that they have just had this experience where the government was very embarrassed because the epidemic spread very rapidly, and it was the lack of information that made it spread so widely and the suppression of information that was already available to journalists, is it more likely or less likely that, if SARS has a resurgence this fall or this winter, that the same sort of repressive muzzle will be put on journalists that want to report the facts about outbreaks and what have you?

Mr. WU. Yes, sir. Well, let me start to tell you a personal story. A friend of mine who is an Italian student was in China, in Beijing, studying Chinese back in the spring of this year.

He and his Chinese friend did not know about SARS until the day when he received an e-mail from his family in Italy, and phone calls as well, to question about, what is going on in Beijing on the SARS issue? So, he certainly woke up.

He went to the Internet and checked, I suppose, English or Italian language online newspapers and discovered the SARS crisis. He went back to his Chinese friend and told them about the SARS crisis in China. None of his Chinese-educated friends, college students, believed him. So, that is the degree of censorship and brainwashing in China, in Beijing, among the top university students.

Now, your question is about the future, I guess, what is going to happen this fall?

Mr. FOARDE. Will there be the same type of restriction on reporting SARS information?

Mr. WU. There is no crystal ball. We cannot predict that. But we can say, in fact, the new Chinese leadership is the same as we saw before. That is, they have tightened, again, the information circulation. So I suppose and I expect the Chinese news media to not be reporting on SARS, as they did during the spring.

Mr. FOARDE. So it is more likely that we will see more of the same instead of learning the lesson.

Mr. WU. I suspect so, sir.

Mr. FOARDE. Unfortunate, indeed.

Kaiser Seyet, Terri Marsh, Timothy Cooper, Wu Wei, thank you for spending your time with us this afternoon.

If you would like, since we have a couple of minutes, I would invite you to make a final statement to sum up the things that you would like the people who read the record to remember.

Maybe we would start with Mr. Seyet, if you would like.

Mr. SEYET. You asked me how long it takes Uighur people to get a passport. Just for example, for my family, I have been here in the United States for 6½ years. My parents started applying for

a passport 6 years ago and they have not gotten anything from the government.

My mother is just a housewife. She does not do anything political. My dad is an electrical engineer and has nothing to do with politics. But it is because I am active here politically, so they have not gotten a passport yet.

The second thing, about SCO, China has been pressing very hard on Central Asian countries. It is like, in Central Asian countries, China does not hesitate going to the addresses and arresting people by themselves. It is like a part of the Chinese terrorism police can go there. Sometimes they can arrest people by themselves and take them to China.

The Uighur refugee problem is worse in Europe. People have been denied seeking asylum and have been returned due to Chinese Government pressure. We would like the U.S. Senate and House to pass a resolution to help Uighur refugees.

If they do not give asylum, just do not give them back to China. China is also a member of the Security Council. They are not obeying the Convention on Refugees as a signatory. So, we would like to mention this to the Chinese Government to press and to not to torture and take them back and execute them. Thank you very much.

Mr. FOARDE. Thank you very much. Very useful.

Terri Marsh.

Ms. MARSH. Well, first, I would like to say that Mike Jendrzeczyk. I cannot pronounce his name.

Mr. FOARDE. Mike Jendrzeczyk. The late Mike Jendrzeczyk, unfortunately.

Ms. MARSH. The Washington director of Human Rights Watch/Asia said, "Cloaking the campaign against Falun Gong in rhetoric about the rule of law does not give any great legitimacy to China's crackdown on Falun Gong." He urges that the ban and the crackdown be lifted and everybody be released immediately.

I would supplement his remarks by urging everyone, not only the Commission, who knows quite well in this area, but the U.S. Government and the U.S. Department of State, I would single out the Administration, the Bush Administration, the U.S. Department of Justice, that all of us need, together, to do what we can to stop the persecution in China and to do what we can to seriously promote a rule of law in China as opposed to a rule by law.

I think that by permitting China to continue to cloak the rule by law in a rule of law, we really foster an environment for the cultural revolution, for the tragedy of Tiananmen Square and for the latest crackdown against Falun Gong. Thank you.

Mr. FOARDE. Thank you very much. Also very useful.

Mr. Cooper.

Mr. COOPER. Again, I want to express my appreciation to the Commission, and to you in particular, for taking the time to listen to the dire case of Dr. Wang Bingzhang. I would like to remind the Commission that, even at this very hour, he sits in solitary confinement in a 4x4 cell. He is not going anywhere. He is facing life in prison for crimes he did not commit.

The Chinese Government offered no evidence whatsoever to prove their case that he committed any act of espionage, any act of terrorism. There was simply no evidence provided at all.

The accusation, for instance, that he attempted to organize the bombing of the Chinese Embassy in Thailand was utterly refuted when an AP reporter called the Terrorism Department of the Thai Government and asked whether or not they had even heard of Dr. Wang Bingzhang, and they said, "Absolutely not."

We do not know anything about these charges, anything about these suspicions. These were fabricated, trumped up charges that have no bearing to reality in any way, shape or form.

The United Nations probed this case. They determined that Dr. Wang Bingzhang did not have any knowledge of the charges against him, did not have the right to legal counsel or the right to review his own arrest and detention, and that after the date of his original detention, he did not benefit from the right of the presumption of innocence, the right to adequate time and facilities for his own defense, the right to a fair trial by an independent and impartial jury, and on and on it goes.

There is no question that he was run roughshod, that he was set up by, we assume, the Chinese authorities, since that is where they would most liked to have seen him, and that he has been denied all justice under law and under universal principles.

So, again, we implore the U.S. Congress to take to heart his case, to take to heart the separation from freedom that Dr. Wang Bingzhang knows, and to support him via a Congressional resolution to exert all due influence on China to free him at the earliest possible date. Thank you.

Mr. FOARDE. Thank you very much.

Mr. Wei, if you had a word or two on behalf of Huang Ciping and the organization, please go ahead.

Mr. WU. Yes, sir. I would like to raise two issues. The first, is the U.S.-based high-tech companies are transferring high-tech technology to China, and by doing so are helping the Chinese Government to increase the degree of information censorship.

Second, I would like to remind Members of Congress that political reform and democratization in China is related to U.S. national security interests. Thank you.

Mr. FOARDE. That will conclude then, for today, our Open Forum. We will try to do another one of these probably after the first of the year.

We will have our next activity on Monday the 22nd. As I said, I do not have a room yet. But as soon as I do, we will send out an announcement.

Thank you all for coming this afternoon, and to our speakers for sharing their views and information with us. Good afternoon, all. (Whereupon, at 3:41 p.m. the open forum was concluded.)

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF KAISER SEYET

SEPTEMBER 8, 2003

ESCALATING REFOULEMENT OF UYGHUR REFUGEES

The Uyghur American Association is deeply concerned about the rising number of peaceful Uyghur dissidents being returned to the People's Republic of China. Although media attention has raised the deportation of Tibetan refugees from Nepal and caused governments to act, no such attention has been paid to the escalating phenomena of peaceful dissents being returned from Central Asian states and Pakistan under pressure from the Chinese government.

Before the formation of the Shanghai Cooperation Organization (SCO), Chinese diplomats would bring accusations of criminal wrongdoing against Uyghur refugees and seek their deportation. Wanted posters in Chinese and the local language have been posted on the streets in many cities. The pressure employed against the refugees and their place of refuge can be summed up with this except from a 1996 internal Chinese Communist Party Document:

"Limit the activities of outside ethnic separatist activities from many sides. Bear in mind the fact that Turkey, Kazakhstan and Kyrgyzstan are the home-bases for the activities of outside separatists forces. Through diplomacy, urge these countries to limit and weaken the activities of separatist forces inside their border. Take full advantage of our political superiority to further develop the bilateral friendly cooperation with these countries. At the same time, always maintain pressure on them. Considering the ethnic separatism activities outside of the border, carry out all necessary dialog and struggle. Strengthen the investigation and study outside of the border. Collect the information on related development directions of events, and be especially vigilant against and prevent, by all means, the outside separatist forces from making the so-called "Eastern Turkistan" problem international."

Chinese Communist Party Central Committee Document Central Committee (1996) No.7 Record of the Meeting of the Standing Committee of the Political Bureau of the Chinese Communist Party concerning the maintenance of Stability in Xinjiang

When the SCO was formed, official contacts started in the Central Asian war on terrorism. At that point, the campaign against 'East Turkistan separatists' had not been internationalized, but quietly, dissidents continued to be arrested and returned to face imprisonment, torture and even death, just for leaving the peoples Republic of China.

After the events of September 11, 2001 and the beginning of the U.S. war on terrorism, Chinese government officials began to equate the peaceful expression of thought with terrorism. In many official Chinese government statements, terrorism and separatism appear side-by-side as crimes to be fought.

The criminalization of peaceful ideas is not condoned by the U.S. Constitution nor any international body or agreement, yet such a tactic is used to repress dissent in countries that neighbor the PRC. The entire process should be viewed as an extension of the Chinese government Police State.

The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment provides that "no State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture." The principle of non-refoulement is a basic right of all people that flee tyranny and oppression and clearly, according to the annual U.S. Department of State Human Rights Report, the People's Republic of China abused the rights of citizens accorded under their constitution. Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Such compelling evidence from the U.S. State Department merits attention to safeguard the human rights of people escaping oppression in the People's Republic of China.

The Uyghur American Association recommends that the U.S. government, in its official dealings with Central Asian states, including Pakistan, Nepal, Kazakhstan and Kyrgyzstan,

- Reinforce the ideal of the rule of law, namely, the principle of non-refoulement with regard to people escaping persecution and oppression from the People's Republic of China;
- Raise concerns about the treatment of refugees and their rights as guaranteed under the U.N. Declaration of Human Rights;
- Raise the issue of forced repatriations, the abuse of human and civil rights before the proper U.N. bodies, and
- Press for meaningful reform and change within the People's Republic of China such that so many do not feel compelled to flee their homeland.

PREPARED STATEMENT OF TERRI MARSH

SEPTEMBER 8, 2003

THE RULE BY LAW IN CHINA TODAY

According to Jeremy Cohen in his "The Plight of Criminal Defense Lawyers," presented to this commission on July 26, 2002, China's entire criminal process is in need of radical reform. In his view, a "radical, long-run political restructuring would be necessary to bring the PRC's criminal process into compliance with [even] minimal international standards." A cursory look at the problems Professor Cohen identifies reveals at least two types. On the one hand, the practice of criminal law in China itself violates the body of Chinese law, which includes but is not limited to the Constitution, the Penal Law, Prison Law, and Police Law. For example, although both the Constitution and Police law prohibit interrogation to produce (enforced and hence false) confessions, police interrogation and torture is a fairly common practice in China, as illustrated in many of the Country Human Rights Reports published by our Department of State. Specific instances described include torture by electric shock and the shackling of hands and feet; confinement of practitioners in mental hospitals; use of excessive force in detaining peaceful protesters; the death of more than 200 practitioners while in police custody with many of their bodies bearing signs of severe beatings and torture.; and the cremation of bodies before relatives examine them. See, U.S. Department of State, Country Reports on Human Rights Practices—China (2000) Available at <http://www.state.gov/g/drl/rls/hrrpt/2000/eap/684.ht>¹

On the other hand, in addition to Chinese violations of their own legal codes, the second type of problem identified by Professor Cohen has to do with the promulgation of rules, in the form of administrative orders, articles of legislation, notices promulgated by all sorts of entities and bodies, including even the courts. These create exceptions to the already drafted rules of law which put some disfavored group or class at a disadvantage in securing the rights the State acknowledges they have. In Jerome Cohen's piece, of course the disadvantaged are all of those accused of crimes, especially those accused of political crimes, and all of those trained to defend those accused of crimes—the criminal defense bar. In spite of the so called right to counsel afforded to all citizens, the People's Republic of China promulgated an exception for Falun Gong. As indicated in an announcement promulgated by the Judicial Bureau of Beijing, (see appendix), this notice as a practical matter denies all Falun Gong practitioners their constitutional right to legal counsel. Similarly, long after Falun Gong practitioners had been unlawfully arrested in China, the "anti cult" law was passed retroactively by the People's Congress to eradicate the practice by the label of evil cult. To up the anti even further, a third rule was promulgated in the form of a notice by the Supreme Court. It states that all persons who practice Falun Gong practice an evil cult. By such a notice, the Supreme Court has undermined not only the independence of the judicial branch of government, it has also undermined its modus operandi and *raison d'être*—to hear cases and render rulings. Before trial, with or without a trial, if you practice Falun Gong in China, you are guilty as charged. With or without an attorney, the deck is stacked.

The two above referenced types of problem identified by Professor Cohen are referenced in Ronald Dworkin's *A Matter of Principle* (1985 Harvard University Press). Chapter two, "Political Judges and the Rule of Law," is especially relevant since it distinguishes between two definitions of the "rule of law."

There is the rule-book conception, which insists that the "power of the state not be exercised against individual citizens except in accordance with rules explicitly set

¹Since 1999, the United States Commission on International Religious Freedom has Designated China as a country of particular concern. See, e.g., Report Of The United States Commission On International Religious Freedom, 25 (May 2002).

out in a public rule book available to all. The government as well as ordinary citizens must play by these public rules until they are changed, in accordance with further rules about how they are to be changed, which are also set out in the rule book." *Id.* at 11. Those who subscribe to this view tend to care less about substantive justice—are the rules fair, do they protect individual rights, is it feasible to believe that such rules will in deed be enforced. As narrow a conception as this is, there is not question that China has indeed violated the rule-book definition of the rule of law, not only during the Cultural Revolution, the tragedy at Tiananmen, but also, and most notably now during the latest persecution of Falun Gong. Those just stated above as well as those stated below are examples of this formulation.

There is a second formulation, which permits us to further evaluate state law to see if it is consistent with even minimal international standards of law and, thereby permits us to distinguish between a rule of law, and the rules promulgated by, for example, the Nazis in WWII. This latter formulation additionally illustrates how in fact what is packaged in China as a rule of law, is in fact and indeed a rule by law.

In this second more expanded formulation of a rule of law, Dworkin observes that "Citizens have moral rights and duties with respect to one another and political rights against the State as a whole. This formulation insists, 'That these moral and political rights be recognized in positive law, so that they may be enforced upon the demand of individual citizens through courts and other judicial institutions.' *Id.* p. 12. This second conception requires more—including a judicial branch which operates independent of legislative and executive branches; an array of due process rights such as oversight of the judicial process itself, right to a fair trial, right to cross examine one's accusers etc. And of course a right for all to secure the rights the State acknowledges they have. In this formulation, the promulgation of new rules to deprive Falun Gong practitioners of their constitutional and legal rights itself signals that we are dealing with something other than the rule of law in China today."

As a China expert noted recently, what appears as a rule of law in China is in fact a rule by law. Unlike the former, the latter is characterized by the state's use of the law itself to disfavor groups, to single out groups for unfair punishment, or, as in China and Nazi Germany, to oppress, torture, exterminate or eradicate groups or classes of persons in ways that shock the conscience and cause one to wonder anew—how can we be so noble and so base, and all be of the same human stock?

Actually it's important to note that a rule by law is nothing new in China. It was used to create and implement the Cultural Revolution. It was used to stifle the student democracy movement stated at Tiananmen. It is used to squash labor movements, any and all criticism of the government. Most notably and most recently it is used to deprive all persons who subscribe to the principles of Falun Gong of the right to think for themselves, the right to a moral conscience, the right to religious freedom, to freedom of speech, to assemble freely and peacefully, to appeal illegal laws of their legislature and farcical rulings of their courts. It is used and continues to be used to torture persons who refuse to relinquish any of the aforementioned rights not for 1 day, or two days, but endlessly for years on torture devices which can only bring tears to the eyes of those who truly contemplate what they are.

But in its latest guise, it is especially troubling and pernicious. In the very beginning of the persecution of Falun Gong, it appears visibly and clearly when (1) By order of former President Jiang, the police arrest Falun Gong practitioners without legal ground, (2) The former president himself defines the crimes retroactively, by trying to persuade the French newspaper Figaro, that Falun Gong, a peaceful meditative form of cultivation, is instead an evil cult, (3) By executive order, the legislative branch passes the infamous anti cult law to legitimate the illegal arrests by outlawing whatever range of meanings are referenced by the over broad and unconstitutionally vague phrase "evil cult," and (4) When the Supreme Court instead of ruling on cases, expounds on the nature of Falun Gong by issuing a notice declaring, at the behest of former President Jiang, that indeed Falun Gong is an evil cult, and therefore even before or without a trial, all who espouse its principles are guilty of criminal acts. Not very different from the Nazis forcing Jews to wear the yellow triangle to identify themselves as enemies of the state, and hence not deserving of the rights afforded its genuine members.

Its beginning is replicated in its implementation. In early June 1999, former President Jiang gave a speech to the Politburo of the Central Committee of the Chinese Communist Party wherein he creates the Office 6/10, a Gestapo organization mandated to usurp proper functions of all three branches of government, of important sectors of civil society, as well as private sector businesses and associations. Officials of this office are stationed in the appeals office where they are known to beat up FLG practitioners who attempt to file an appeal in accord with rights af-

forded to all citizens by the constitution. Officials of this office are stationed in schools, police stations, hospitals, mental hospitals, detention centers, labor camps, re-education centers. They issue the orders to doctors to force feed Falun Gong practitioners who refuse to admit that their spiritual beliefs are corrupt. They order the prisons' guards to place Falun Gong practitioners in cells with the most violent criminals where they are beaten if not to death then to near death regularly. They are stationed above the Ministry of Foreign Affairs and instruct Ambassador staff, and those working abroad how most effectively to expand the persecution to those who practice Falun Gong here in the United States. Most pertinent herein, they too promulgate rules and the rules they promulgate are not only inconsistent with standards of common sense, decency, and morality, but they are also rules established and promulgated to systematically, efficiently and effectively persecute Falun Gong practitioners and eradicate the practice utterly from the mainland of China, once and for all.

Finally, there are the sham show trials. According to an eyewitness of one such trial, after the government's only witness admitted he'd never met or heard of the defendant before the onset of his trial, the Judge without any evidence whatsoever still found him guilty as charged.

According to Mike Jendrzeczyk, Washington Director of Human Rights Watch's Asia Division, "cloaking this campaign in rhetoric about the 'rule of law' doesn't give any greater legitimacy to China's crackdown on Falun Gong . . . The official ban . . . should be lifted; the government's pronouncement that it is a true cult and that it must be suppressed must be rescinded. All Falun Gong members in detention, formally charged, or sentenced to labor camps for peaceful activities should be released immediately." *Id.*

I would supplement those remarks by suggesting that we do all we can to promote the rule of law in China. That this Commission continues to do it can. Because a rule by law is dangerous not only for the harm it wreaks internally, but because as long as the rule by law is the norm, such atrocities as the Cultural Revolution, the tragedy at Tiananmen, and most unfortunately and notably the genocide it now perpetrates against Falun Gong will continue under the cloak of a rule of law.

PREPARED STATEMENT OF TIMOTHY COOPER

SEPTEMBER 8, 2003

THE KIDNAPPING, DETENTION, SUMMARY TRIAL, AND SENTENCING OF
DR. WANG BINGZHANG

Distinguished representatives of the Congressional-Executive Commission on China: My name is Timothy Cooper, and I am the executive director of Worldrights, a non-governmental organization dedicated to human rights advocacy worldwide. I have the honor today to speak to you about the shocking case of Dr. Wang Bingzhang, who was recently kidnapped, detained, summarily tried and sentenced to life in prison in China for crimes he did not commit. Unable to attend these hearings today, Dr. Wang's family, including his parents, brother, sisters and children, wish to convey their appreciation to this commission for its interest in Dr. Wang's dire and deeply troubling circumstances. For at this very hour, he languishes in solitary confinement in a Chinese prison cell, facing the prospect of living out the rest of his life in a 4x4 foot cell.

In many ways, Dr. Wang's story mirrors that of the thousands of other well-known and lesser well-known political prisoners, who have also confronted the brutal ire of the Chinese government for standing up for universal principles and world rights in the face of severe and sustained oppression, more frequently than not at the expense of their own freedoms, their own rights, and yes, even their own lives.

But in other ways, Dr. Wang's case is uniquely situated. The government's calculated treatment of Dr. Wang appears to mark a new nadir in the annals of political oppression in China. Indeed, it is Dr. Wang's family's contention that the deliberate and unconscionable actions taken against him by the Chinese government crossed an important moral and political divide that should raise a series of red flags in the West and around the world about the direction China's human rights policies may be headed.

It is for this reason that the U.S. government—the world's champion for the human rights—should not and must not turn a blind eye to the fate of Dr. Wang. Having himself stood tirelessly, if not heroically, for the civil and political rights of 1.2 billion of his own people in China for over 20 years as an exiled Chinese citizen and a permanent U.S. resident, we believe that it is morally incumbent upon the

United States—and in particular the United States Congress—to stand with Dr. Wang in his greatest hour of need.

In June 2002, Dr. Wang and his two companions, Yue Wu and Zhang Qi, flew to Vietnam to meet with mainland Chinese labor leaders in order to explore possible venues for cooperation between the overseas pro-democracy movement and the rising labor movement. The strategic concept was to marry the head of the democracy movement with the body politic of the fledgling labor movement. Such a powerful marriage of political convenience would undoubtedly strike unholy terror in the hearts of Chinese authorities. It is therefore understandable that the Chinese government would stop at nothing to try to thwart the development of such a potentially potent strategic alliance.

On June 27, 2002, Dr. Wang, Yue Wu and Zhang Qi were abducted from their hotel lobby by about ten men, posing as Vietnamese policemen, only a short time after meeting with a labor leader in the border town of Mongcai. According to Yue Wu and Zhang Qi, two of the men spoke with Chinese, not Vietnamese, accents. Told that they were wanted for questioning at the police station, they were taken to an awaiting van. Soon they realized they were not being driven into town, but out-of-town.

They arrived at the Beilun River, where Dr. Wang was forcibly removed from the van and beaten because he refused to board a boat that stood waiting for them. Forcibly taken aboard, they were escorted across the river and into China. Once on shore, the leader of the group revealed a picture he had with him of Dr. Wang. With satisfaction, he compared the picture with Dr. Wang's face. He had found his man, all right.

Later, a new band of men arrived and took charge. This time they were all Chinese. Dr. Wang and the others were blindfolded and taken by car to a nearby hotel, where the "kidnappers" demanded a ten million dollar ransom. Naturally, Dr. Wang, Yue Wu and Zhang Qi carried no such sum. They provided their captors with family contact information, including all cell phone numbers. But no family members were ever contacted. No ransom was ever demanded.

After being detained in the hotel with papered windows for about a week, Dr. Wang and his companions were taken to a Buddhist temple near Fangchenggang, in remote Guangxi province. There their "kidnappers" abandoned them, still bound and without warning. Moments later, the Chinese police arrived—in the words of the Chinese authorities—"to rescue" them.

But Dr. Wang, Yue Wu, and Zhang Qi found only continued detention. The three were kept in police custody until the following day when they were transferred to separate detention centers. There they were held incommunicado for over 5 months. All the while, the Chinese government denied any knowledge whatsoever of their whereabouts.

In December, the government finally announced that it was, indeed, holding Dr. Wang and his two companions. Dr. Wang was charged with "espionage" and "terrorism." The others were set free. Yue Wu returned to Paris in December and Zhang Qi was placed under house arrest until her return to the United States in March.

Meanwhile, Dr. Wang was summarily tried in a 2-hour, closed trial. His lawyer received the case only a week or so before the trial and stated that he had no experience in such cases. In February, Dr. Wang was sentenced to life in prison for his alleged crimes of "espionage" and "terrorism," though no evidence was ever offered by the Chinese government to support its outrageous allegations. All the while, Dr. Wang has maintained his innocence. His appeal was later rejected and Dr. Wang was taken into solitary confinement, where he has remained ever since.

In July 2003, however, the Office of the U.N. High Commissioner for Human Rights issued Opinion No 10/2003, regarding the case of Dr. Wang, Yue Wu and Zhang Qi. In its written opinion, the UN's Working Group on Arbitrary Detention concluded that, among other things, the detention of Dr. Wang, Yue Wu and Zhang was arbitrary and a violation of international law. It noted that during Dr. Wang's first 5 months in detention, he "did not have knowledge of the charges, the right to legal counsel, or the right to judicial review of the arrest and detention: and that, after that date, he did not benefit from the right to the presumption of innocence, the right to adequate time and facilities for defense, the right to a fair trial before an independent and impartial tribunal, the right to a speedy trial and the right to cross-examine witnesses." Nor did the U.N. find any basis for China charges of "espionage" and "terrorism."

It concluded its opinion by calling on China to take "the necessary steps to remedy the situation of Wang Bingzhang and bring it into conformity with the standards and principles set forth in the Universal Declaration of Human Rights." In other words, it called on China to free him.

Representatives of the Commission, Dr. Wang was trained as a lung surgeon. He earned his Ph.D at McGill University in coronary-arterial research. Yet, he chose to devote the best years of his life to promoting human rights and democracy for the people of China, famously stating that "Medicine can only cure a few patients, but cannot cure the disease of a nation." Now—in ill health himself, suffering from depression, gastritis, varicose veins and Phlebitis, without the benefits of Western medicine, he faces the prospect of an interminable prison sentence in a 4×4 ft. cell for crimes that he did not—could not—commit.

But as much as he requires medical assistance, Dr. Wang also requires the generous assistance of the U.S. Congress. Dr. Wang's family respectfully requests that this Congress pass a joint resolution on his behalf, calling on the Government of the People's Republic of China to release him on medical grounds at the earliest possible date, and to abide by the legal opinion rendered by the United Nations in his arbitrary detention case. We believe such a resolution would reaffirm America's commitment to human rights in China and honor a man who has dedicated his life to the freedom and human rights of so many others.

Thank you.

SUBMISSIONS FOR THE RECORD

PREPARED STATEMENT OF CIPING HUANG, EXECUTIVE DIRECTOR, WEI JINGSHENG FOUNDATION AND HUMAN RIGHTS CHAIR, INDEPENDENT FEDERATION OF CHINESE STUDENTS AND SCHOLARS (IFCSS)

SEPTEMBER 8, 2003

NO PRESS FREEDOM IN CHINA AFTER SARS

My name is Ciping Huang. Today, I am making a statement on behalf of the Wei Jingsheng Foundation and the Independent Federation of Chinese Students and Scholars, regarding the current news media and information channels being controlled by the Chinese government.

Early last spring, the China press got unexpected world attention because of SARS. The initial cover-up by the government resulted in terrible consequences including panic and many deaths in China. However, only after the disease spread overseas and caused an international outcry, was the Chinese press loosened and allowed to give out the number of deaths and related health information, trustworthy or not. As a result, kindhearted people around the world have an increased hope for Chinese press freedom. As an old saying said: a loss may turn out to be a gain; the SARS storm might bring a positive reform to the Chinese press.

Of course, the world should welcome each step of progress toward democracy and freedom, no matter how small the step might be, if only it is a sincere step. However, people must be wary of illusions or wishful thinking. Without a systematic guarantee in China, any step forward could be easily taken away by the government.

The freedom of the Chinese press has long been a goal that Chinese people have pursued. During the 1989 Tiananmen democracy movement, many young people sacrificed their lives for this goal. For a short few days, the Chinese people thought they gained that freedom, only be crushed by tanks and the government propaganda machine later on. Now there are still many people both on the China mainland and abroad struggling hard to get even one private newspaper or magazine published in China. So far, has anything changed? The only one real voice to be heard in China is the voice from government. Non-governmental approved voices are cut and muted.

The sad reality is: China has not gained more press freedom since SARS.

Even during the seeming opened crack of reporting on SARS, very little attention was given to the Chinese government's decree to "severely punish the rumor spreaders." Several dozen people were arrested for spreading the news about SARS.

In June 2003, the Chinese Communist Party Central Propaganda Department criticized more than 10 major well known newspapers and magazines, such as <Beijing Communication>, <Three-United Life Weekly>, <Finance> etc. The cited issues included SARS and the reporting on corrupted officials. After this criticizing, some "sensitive articles" had to be "killed" before publishing. Especially those articles reporting on Doctor Jiang (who first appealed to open truth on SARS) got tight censorship by the government and many articles were cut. Due to the new regulations, SARS reporting is not a free topic but has a very clear and disciplined line that the most journalists have no guts to cross. The forbidden topics also include: the North Korea nuclear crisis, the nuclear submarine 361 explosion case, and Zhou Zhengyi, the top corruption case in Shanghai. (See attachment 1.)¹

In recent months, the government has had more meetings to call for "The Reform of China Press and Publication." The proposals included cutting the number of totally controlled newspapers, clarifying the "Party's disciplines" and emphasizing the purpose of propaganda etc. However, as Cai Yongmei, The executive editor of Hong Kong's <Open> magazine (Kai1Fang4) analyzed: "I think the government doesn't want to lose the control of media. Light issues and non-sensitive topics might get loosened, but serious topics, or those they think are principal issues will be held as tightly as before." (See attachment 2.)

Last month, the veil over this "reform" was finally lifted. The Chinese government finally decreed their detailed regulations without a sign of real reform. These regulations demonstrated further the hard-line face of the central government that tries to make a successful and strict control over the news media. In particular, the regu-

¹ Attachments 1 through 5 appear on the Commission's Web site (www.cecc.gov) in Chinese.

lations ask for strict censorship, and include dismissing and appointing the leaders. (See attachment 3.)

Also in the summer, the Chinese news media and universities and academic/research institutes received notices from the government clearly stating prohibitions to discuss certain issues, in particular modifying the constitution, political reforms, and the 1989 Tiananmen democracy movement.

We want to emphasize that China has a long way to go toward real press freedom. The root of the problem lies in the system, which has been there for over half a century under the Chinese Communists' rule. The following facts are some of our highest concerns. The problems still exist after SARS.

1. There is no real private press in China and no independent journalism under the Chinese Communists' one-party leadership.

So far, except for some pointless papers and local small magazines (e.g. equivalent to "how to do make-up"), China doesn't have a single newspaper or magazine owned by a non-government agent or company. The registration of a press is a very complicated and strict step. The government at any time can easily crush a newspaper or magazine agent/company if it violates the government regulations, or even just displeases some officials.

2. Internet Censorship is a serious abuse of the basic human right of "right to knowledge."

If you are in China and open "Google" or "Yahoo!," you won't be able to find many web sites that you can see in other countries. Since August 31 this year, Chinese government shutdown the search machine "Google" in China again. Just before every political event, Internet become one more place for the Chinese Communists to tight their "strict strike" control. According to latest report by Central Agency, the government has 300,000 people policing the Internet, including 30,000 professional work for the National Security Department, to monitor and filter news and e-mails, to shutdown web sites and to give warnings to people who make "undesirable" web pages or posts on the Internet. Unless technically specially handled, E-mails from dissidents such as me are often rerouted through the police bureau before reaching the intended recipients, and are often rejected and even be confiscated without acknowledgement. In some cases, the recipients are harassed, or interrogated by the secret police. It surely is amazing that while this government has failed to control "forbidden pornographic materials" on the Internet, it is able to put a pretty good handle on the dissident voices and even just plain news.

The censoring not only applies to the news and articles posted in foreign web sites, but also to local people who join "chat rooms." Liu Di, a 19 year old college girl, has been detained for months because of some words and essays she posted in a chat room.

Yet, this type of the censorship is just part of the integral policing system in China. As the other side of traffic, I was told by a friend whose sister worked to examine the mails from overseas that one-third of all mails went through inspection, beyond even "targeted mails." In addition, phone tapping is common and public knowledge in China, and is not just applied to the dissidents and activists.

3. Brave journalists and liberal editors often get in trouble, and some are put in prison just because they report the truth or speak from conscience.

While over all, Chinese people are the victims of the Chinese Communists' propaganda machine; Chinese news media workers are the direct victims. In the last 5 decades, many of them lost their freedom or even lives for it. One of my friends, Wu XueCan, who was an editor for People's Daily, was put in prison and tortured after the 1989 Tiananmen movement for his effort to bring truth to the people.

Many liberal editors and reporters got laid off or even put in prison for reporting on corrupted officials, on the common people's suffering, or just expressing (or even just allowing) a different view from the government. They make a long list. Here, I want to mention a few:

(a) Gao Qinrong, a journalist who reported about corruption on the irrigation system flaw in ShanXi Province, received 13 years in prison. (Attachment 4 is an article written by Yu Jie, an established scholar in China, about Gao.)

(b) Qi YanChen, editor, was prosecuted for "spreading anti-government messages via the Internet" by submitting articles to places such as the pro-democracy electronic newsletter VIP reference. He was sentenced 4 years.

(c) Teng ChunYan, an American citizen and a Falun Gong practitioner, received 3 years in prison for serving as a source on Falun Gong for news organizations.

(d) An Jun was the founder of the China Corruption Monitor. His writings were used as evidence of anti-state activities and he was sentenced 4 years. (In-

terestingly enough, An's verdict was not announced until April 19, 2000, the day after the U.N. high commission on human rights failed to pass a US sponsored resolution to condemn Chinese human rights abuses.)

(e) Jiang QiSheng, journalist and political dissident, just finished 4 years jail time in May for his pro-democracy articles including an essay to honor June 4 victims.

(f) Huang Qi, Internet publisher and web host, is still in prison for publishing stories about human rights abuses, governmental corruptions, and June 4 Tiananmen.

(g) Yang ZiLi, etc. (4 youths), was sentenced lately (after SARS) for academic discussion.

4. To survive one must to speak the Party's tongue.

It is very common for editors to have to cut some "sensitive sentences" when they review articles in newspapers or magazines. The most sensitive parts are not pornography issues, but those related to the political issues. There is no evidence for a change in this situation.

From very reliable channels, I know that the editors working in newspapers and magazines can only have part of their own minds, if they care about their life or their family's future. They consistently have meetings to "listen to the government's opinion," that usually announce some "important regulations" of how to report certain sensitive events. "Keep the same tone with Party" is the first rule for all journalists in China. Some of my editor friends say that they don't have their own tongue but the Party's tongue.

5. China has been rated "the second worst country for freedom of press and speech." The bias, misleading, even false news serve for Chinese government's agenda.

On sensitive issues, only the government will have the right to decide if the news can be opened to the public, and when and how. For example, the unemployed workers' unrest in Northeast China will be suppressed in any newspaper with the "reason" of "not disturbing the stability of the country." Early this year, in my home town, Hefei City, when thousands students took to the streets to protest the wrongful deaths of their fellow students, no reports appeared for days in the official news media even though the city residents knew something happened because of the paralyzed traffic and angry crowd.

Government events cannot be revealed on time without the Party's control. Most of them become "top secrets." The Chinese people have little chance to know what their "people's government" does or will do. Even foreign correspondents based in China cannot get timely news—they face routine surveillance and need special permission for leaving their city of residence.

For important world events, even though some city people can watch the news from foreign satellite broadcasts (not very easily), most will be influenced by the media controlled to report only the news the government wants people to believe. For example, the reporting of the Iraq war was totally biased—Saddam became a "hero" in the reports. Of course, this case is only one of many illustrating how the controlled news media has been misleading many Chinese people in an effort to realize the government's own agenda. Dislike and even hate of America is on the agenda. One of the most noticeable expressions is that the news media becomes the government's tool to fan up "nationalism." Many more examples can be found that cover almost all important world events, such as the North Korea Nuclear crisis, Taiwan across the Strait, and the American pilots being shot down in HaiNan, China.

6. The Chinese people don't trust the news if it is presented by the Chinese government.

Chinese people do not have faith in the Chinese government. They always know that their government cheats. They do not trust the government and what it says. Yet, for fear of their lives, their freedom, and their families, most people could not and do not dare to voice their hope for a free press.

During the beginning period of SARS, Chinese people, especially those living in the big cities such as Beijing, Nanjing, and Shanghai, relied on the news sent by their overseas relatives. Some of my friends who worked in the USA told me that they were very busy looking for SARS news and were sending it immediately back to China so that their family members would have a timely updated true picture of the cases.

Those people who don't have overseas relatives usually rely on BBC, Voice of America, Radio Free Asia, or other overseas media since they have less confidence

on their own government's report. Everybody knows the phrase "In China, we only have one voice."

After SARS, Chinese people still do not have confidence in the government media, especially on political issues or other important issues.

Attachment 5 is an article on the subject that was by an overseas Chinese that returned to China.

7. Foreign Investment and Internet will not bring free press to China.

Many foreigners, especially foreign investors, argue that their investment will bring freedom including press freedom to China. The Chinese government has also quietly encouraged such kind of notion, including making academics and Western politicians believe in it. On the other hand, Chinese government rightly pointed out that "the News Media is a special enterprise that does not follow the rule of 'who invests in it, owns it.'" The government specifically stated that "the news media is a State enterprise" which applies to all the newspapers.

Similar ideas apply to the Internet. The Internet and advanced computer technology have become the tools for government monitoring and suppression of dissidence. It is a shame that a US company like Yahoo! has voluntarily cooperated with the Chinese government's requirements and made the guarantee to filter contents disliked by the government. It is more a shame for Western companies to work closely with the Chinese government to create the product "Golden Shield" which blocks information transfer and tracks addresses and messages to help make state policing the best in the world. (For detail about "Golden Shield," please visit an article on DaJiYun at: <http://www.dajiyuan.com/gb/2/5/6/n188071.htm>.) What is the difference between doing these things and the exporting of high military technology to China a few years ago?

Here we urge the freedom and democracy loving American people and the US Congress to examine these issues and to prevent these moneymaking deals on the price of Chinese people's human rights and freedom.

To summarize our statement, there is no press freedom in China, even after SARS. The support and effort from the outside world will always be necessary and important. But first, we must know the real picture and what is really happening in China. Any credence or wishful belief of press freedom coming soon in China is not only concluding a wrong judgment, but also might hurt the people who have been and will be sacrificing their lives for China's press freedom. The Wei Jingsheng Foundation and IFCSS wish you can carefully evaluate the situation based on valid facts and continuously push the Chinese government for the better.

Thank you.

PREPARED STATEMENT OF KERY WILKIE NUNEZ¹

SEPTEMBER 8, 2003

THE PERSECUTION OF FALUN GONG IN CHINA

Thank you for the opportunity to submit a written comment on the persecution of Falun Gong in China. In particular, I would like to discuss the detention and torture of American citizen Charles Lee.

Dr. Charles Lee traveled to China in January of 2003. The moment he stepped off the plane, he was detained and beaten by Chinese authorities. He was later rushed through a show trial and "sentenced" to 3 years in prison for a crime he did not commit. On a previous business trip to China, Charles considered tapping into a local cable to expose the human rights violations against Falun Gong practitioners. He never considered sabotaging any TV or radio equipment (which is what he was accused of). Nor did he ever do a broadcast.

From a 95-page letter that Dr. Lee managed to get to the U.S. Consulate only by means of an 8-day hunger strike, as well as from information provided by the U.S. Consulate in Shanghai, we understand that Dr. Lee has endured severe abuse while in prison.

He was forced to wear smelly winter clothes on unbearably hot days; he was deprived of sleep for 3 days; he was handcuffed in a very painful position for over 72 hours. Police intentionally tightened the handcuffs into his flesh to make it more painful, leaving scars on his wrists. He was also handcuffed for 130 hours while trying to write his appeal to the Court. At least twice, he was force-fed (a type of tor-

¹ Kery Wilkie Nunez is a Falun Gong practitioner and a legislative director for a national Latino organization in Washington, DC.

ture that has resulted in the death of many Falun Gong practitioners). The Chinese authority intentionally left the tube in his body for 4 hours to torture him. And worst of all, the Chinese authority put tremendous pressure on Charles' elderly parents (his mom had leukemia) in an attempt to break Charles' will. Charles didn't want his parents to witness his suffering, as he was very concerned about their health.

To understand why any Falun Gong practitioner would risk his or her life to broadcast human rights violations in China, one must first understand how China controls the media and fabricates lies to deceive the viewer into accepting the regime's viewpoint. China uses its state-controlled media—print, radio, propaganda shows, Internet blockade, etc.—to spread lies about a very peaceful spiritual practice that has brought millions good health and inner peace. According to an article of July 23rd in The Washington Post, entitled “China's Spiritual Outlaws,” China makes accusations and uses the word “cult” in describing Falun Gong in order to sow confusion, suspicion, and indifference among outsiders. The article explains that Falun Gong does not meet the definition of cult. “It does not coerce obedience, brain-wash its members, gouge them for money or compel worship of its founder, Li Hongzhi. It doesn't wear down their egos, then build them up in the new image of the spiritually transformed.” Yet, China's state-controlled media spreads rumors to the contrary, meanwhile the books are banned from the public.

Meanwhile, the government pressures everyone in society (professors, companies, schools, neighbors, family members, etc.) to report on Falun Gong practitioners. Some Chinese people are deceived by the media and are misled to believe that they should report on their neighbors if they practice Falun Gong. What they don't know is that they are reporting on innocent people who may be sent to a torture camp. Torture of Falun Gong practitioners is well documented in the free world. Yet, there is no way to educate the Chinese public about this, as a person may lose his life for distributing a flier.

Recently, we learned that Chinese authorities forced an abortion on a Falun Gong practitioner in her seventh month of pregnancy simply because she refused to give up her beliefs. She was restrained while an abortion-inducing drug was given to her. While abortion is relatively common in China, most Chinese citizens probably don't know about this baby, which struggled in its mother's womb for 40 hours before it died. Afterwards, the mother struggled to deliver the dead baby.

Perhaps a small dosage of truth would affect the views of a seemingly indifferent populace. In fact, Falun Gong's broadcast's in China has allowed many Chinese citizens the opportunity to see both sides of the story and follow their own conscience.

However, no one should have to risk his or her life to tell a story. It is my hope that, with the guidance of the CECC, the United States will play a key role in improving information exchange in China. I also hope that the rescue of Dr. Charles Lee and other Falun Gong practitioners from China will become a priority for the U.S. How the U.S. treats human rights issues will send a very important message to China's new leadership.

