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POLITICAL PRISONERS IN CHINA: TRENDS AND IMPLICATIONS FOR U.S. POLICY

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BEFORE THE

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POLITICAL PRISONERS IN CHINA: TRENDS AND IMPLICATIONS FOR U.S. POLICY

TUESDAY, AUGUST 3, 2010

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The hearing was convened, pursuant to notice, at 10:19 a.m., in room 628, Dirksen Senate Office Building, Senator Byron Dorgan, Chairman, presiding.

OPENING STATEMENT OF HON. BYRON DORGAN, A U.S. SENATOR FROM NORTH DAKOTA, CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Chairman DORGAN. We're going to call the hearing to order.

I'm Senator Byron Dorgan and I am Chairman of the Congressional-Executive Commission on China. This hearing is being held at a time when the House of Representatives is not in session, so I unfortunately will not be joined by Members of the U.S. House of Representatives.

But I will be joined by Members of the Senate this morning. They are now attending a proceeding in the Foreign Affairs Committee, I believe, but will attempt to get here as soon as possible. I wanted to begin the hearing reasonably close to the time that was advertised. I thank the witnesses for being with us today to discuss a very important issue for our country.

The recent trials of scholars, activists, lawyers, and others in China have shone a spotlight on the Chinese Government's use of detention and imprisonment to squelch dissent or to advance government objectives.

This Commission is the repository of the most complete publicly available database of Chinese political prisoners who are being held in some of the darkest cells in the world due to government human rights violations.

I want to just show a printout from the database that was created and is maintained by our Commission. This three-inch thick binder contains names of people who are being held in Chinese prisons, some without hope, some for a lifetime, some for 10, 20, and 30 years. These prisoners have been convicted by the state, by the Government of China, for various offenses against the state. We are going to talk about that today.

One of the things that I want to learn from the experts who will testify today is, what is the trend? Is the trend toward imprisoning people for exercising the right of free speech or is the trend toward allowing more space for people to exercise their freedom of speech?

China is changing, we know that. China is a significant country on the world stage. The relationship between our country and China is significant.

The question is, what do we make of what is now happening in China with respect to the imprisonment of people who dare tell the truth, who dare on the Internet to type what to most of us would seem to be a very innocent email and discover it puts them 10 or 20 years in a Chinese prison? What do we make of all that? Can we, and should we not, expect China to be behaving in a different way, to be committed to rule of law, and for which they should be proud of, as opposed to a rule of law that all too often is bent to exercise the will of their government and to repress the free expression of their citizens.

The title of today's hearing is, "Political Prisoners in China: Trends and Implications." Recent trials of bloggers and professors, writers, lawyers, and others have heightened concern that the Chinese are now increasingly using detention and jail to stifle dissent and to advance government objectives at the expense of human rights.

For example, just a few days ago, Gheyret Niyaz, a Uyghur journalist and editor of a popular Web site was sentenced to 15 years in prison in China for apparently giving an interview to the foreign media after the July 2009 demonstrations and riots and for essays critical of some Chinese Government policies in Xinjiang.

We have a distinguished panel of witnesses who will help us examine whether or not imprisonment for human rights violations is on the rise in China and whether the profile of a political prisoner is different today than, say, for example, 10 years ago.

We will examine whether and how the threat of political imprisonment affects the work of people and organizations who have been engaged in human rights advocacy or who are involved in, for that matter, commercial activity in China, including U.S. citizens involved in commercial activity.

The witnesses that we have invited will also explore the opportunities that Chinese citizens have lost as a result of the chilling effects of political imprisonment on public life and what the U.S. Government should do in response.

I want to mention two alarming trends. First, with respect to the Internet, it appears to have spawned an entire new class of political prisoners in China. Chinese citizens are increasingly going to jail for posting essays online that are critical of the government or for trying to organize political opposition online.

Many citizens who criticize their government in blogs and comment boards go unpunished, and at most their comment is deleted. But individuals with a track record of human rights advocacy or some kind of political activism or some sort of grassroots support organizing or opposition to the Communist Party, they seem to be systemically targeted.

The most common charges against these citizens is the crime of subversion, which carries a sentence of up to life imprisonment, and also inciting subversion, which carries a sentence of up to 15 years. And individuals that are imprisoned on these charges have done nothing more than criticize the Communist Party, without advocating any form of violence.

Now, the second major concern is the government's harsh crackdown on lawyers and human rights defenders inside the country of China. Over the last two years, a number of lawyers who have represented human rights advocates, including house church members, HIV/AIDS activists, Falun Gong practitioners, Tibetans, and Uyghurs, have been harassed and abused by the government because of their clients and because of the causes they represent.

Perhaps the most outrageous, I think, and cruel example of abuse by the government is the disappearance of Gao Zhisheng, one of China's greatest human rights lawyers. He endured jail and torture because of his fearless advocacy and his commitment to speak the truth as he knew it. Last year, he was abducted from his home by security agents after his wife and two children had left China to seek asylum in this country. He disappeared.

Now we know for more than a year security agents shuffled him from one location to another and subjected him to both physical and psychological abuse. After Members of Congress, including this Commission and myself, and the international community pressed his case, Gao mysteriously reappeared for two weeks, just two weeks, this past spring. He gave a few interviews, and then security agents abducted him again. His forced disappearance by the State reveals a complete disregard for individual rights and the rule of law.

Let me say, with respect to the case of Mr. Gao, I have written on several occasions to the Chinese Embassy here in the United States, and have not received satisfactory responses, which is typical, I regret to say.

Gao's photograph and a detailed record of his case can be found in the Commission's newly enhanced Political Prisoner Database.

At this time, the Commission's Political Prisoner Database contains about 5,500 records of political prisoners. Our Commission believes that to promote the rule of law in China it is vital to publicize and seek the release of these people. It was international pressure that played a critical role in securing the freedom of Nelson Mandela, Lech Walesa, Kim Dae-Jung, and many others who helped lead their countries to greater social justice.

So, too, is our responsibility, to press for the release of political prisoners in China. Today's imprisoned dissidents are the leading figures of tomorrow's societies, in my judgment, and that is especially the case with respect to China. The new society in these countries will be led by people who understand and exercise a greater respect for human rights.

Perhaps most of us in this large room have visited China, and we look at this very large, interesting country with an extraordinary history with wide-eyed interest. We understand it will play a significant role in the destiny of our country and the world for decades to come, centuries to come. The question is, what can we say to the Government of China to change and end their suppression of human rights and imprisonment of those who dare speak the truth—what can we do to change that?

How can we continue to apply pressure on China, to say if you want to be a respected member of the modern world, if you want to be a respected member of the economic world, then you must change course with respect to the suppression of the human rights

of your citizens. The State just cannot go to the Internet and find someone who has said something critical about the government and throw them in a dark prison cell away from society for 10 years, 20 years, or life. The rest of the world condemns that behavior and it must stop.

We are joined today by four witnesses. I do want to read a fair amount of their background. The background recitation will take longer than their testimony, perhaps, but I want everyone to understand what these witnesses are about and what experience they have.

Starting on my left is Mr. Jerome Cohen, Professor at New York University School of Law. He is the Co-director of the U.S.-Asia Law Institute and served for several years as C.V. Starr Senior Fellow and Director of Asia Studies at the Council for Foreign Relations.

At Harvard Law School, he introduced the teaching of Asian law into the curriculum from 1964 to 1979. He has written extensively. He's published several books on Chinese law, including "The Criminal Process in the People's Republic of China, 1949–1963," "People's China and International Law," and "Contract Laws of the People's Republic of China." He has a B.A. Phi Beta Kappa from Yale, and graduated from Yale Law School, where he was editor-in-chief at the Yale Law Journal.

Mr. Cohen, that's quite a background. We welcome you here.

Mr. Joshua Rosenzweig is the Senior Manager for Research and Hong Kong Operations of the Dui Hua Foundation where he has extensive research experience working in Chinese archives and libraries. Since joining that foundation in 2002, he has developed its comprehensive database on information about Chinese political and religious prisoners, and written more than a dozen volumes in the foundation's series of occasional publications.

He received a B.A. from Swarthmore College. We express a special thanks to Josh, the foundation, and its executive director, John Kamm, for their extensive efforts on behalf of political and religious prisoners in China. Their assistance to the Commission has been invaluable, particularly in helping to launch the Political Prisoner Database.

Dr. Wan Yanhai is Director of the Beijing Aizhixing Institute and an expert on HIV/AIDS, human rights, and civil society in China. He received a medical degree from Shanghai Medical University School of Public Health. Upon graduation, he worked in China's National Health Education Institute, then served on the staff of Beijing Modern Management College from 1994 to 2002. He founded the Aizhixing Institute, which works toward prevention of HIV/AIDS transmission through community outreach.

He has collaborated with the Chinese Society for the Study of Sexual Minorities, the National Working Committee of People Infected by HIV Through Blood Transfusion, the Working Group of Citizens Health Rights for Education, the China Patient Rights Project, and the Beijing LGBT Culture and Rights Center in 2008.

Dr. Wan, thank you very much for being here.

Finally, Sophie Richardson. She's the Asia Advocacy Director of Human Rights Watch. Dr. Richardson oversees Human Rights Watch's work on China and speaks Mandarin Chinese. She's the

author of numerous articles on domestic Chinese political reform, democratization and human rights in Cambodia, China, Hong Kong, and the Philippines, and of a new book on Chinese foreign policy, I understand.

She has testified before the European Parliament and the U.S. Senate and the House of Representatives, provided commentary to BBC, CNN, the Far Eastern Economic Review of Foreign Policy, and NPR. She received her B.A. from Oberlin College and her doctorate from the University of Virginia.

Dr. Richardson, thank you for being with us today.

The entire statements of all four of the witnesses will be made a part of the permanent record in their entirety, and we would ask the witnesses to summarize their statements now.

Mr. Cohen, let me begin with you. Again, let me welcome you to the Commission.

[A compilation of Representative Cases from the Political Prisoner Database appears in the appendix.]

STATEMENT OF JEROME A. COHEN, PROFESSOR, NEW YORK UNIVERSITY SCHOOL OF LAW; CO-DIRECTOR, U.S.-ASIA LAW INSTITUTE; AND ADJUNCT SENIOR FELLOW FOR ASIA STUDIES, COUNCIL ON FOREIGN RELATIONS

Mr. COHEN. I'm grateful for the opportunity to be here and also for the Commission's continuing contribution to American understanding of China, especially in the area of human rights.

I appreciated your statement, which I think accords well with all of those who know China. You were already, in effect, the first witness and we will try to supplement what you have said.

This topic, as we all know, is as broad as it is important. I want to emphasize the breadth of it, the breadth of the term, "what's political" and the breadth of the term, "who are prisoners," and the disqualifications and sanctions that apply to people, not only those who suffer criminal prosecution, conviction, and are sentenced to jail, but those who don't but who are also prisoners in many significant ways.

Now, the Chinese Government always denies that it has any political prosecutions. People are always prosecuted for violating specific provisions of the criminal law. But the criminal law, as we all know, is very vague and it permits a whole range of people, starting with classical political dissidents, democratic organizers, freedom seekers, and covering a whole spectrum of people who didn't realize they were political criminals but became so because they were merely protesting a range of local grievances, such as some of those you have mentioned: land disputes, property disputes, environmental, labor problems, birth control problems. These are all often local disputes that make people become political prisoners because there is no satisfactory outlet for their peaceful protest. Many of them, of course, get locked up.

The trend with respect to prosecuting people—for example, engaging in conduct that endangers state security, a very vague term—is troublesome. It seems to be increasing; although we have some statistics—transparency is highly limited in this respect, as well as others. But as you mentioned, lawyers who defend these people often become political criminals. It isn't only the famous

people that some of us have helped to publicize who become political offenders.

Political can cover people like Xue Feng, the American petroleum geologist who was recently sentenced to eight years in prison. He thought he was acting in a commercial sense. His case has become highly political in terms that it involves alleged state secrets, it involves diplomatic sensitivities, it involves international business, the concern of the business community.

Then you have other examples. For example, the recent trial of alleged mafia organized crime people in Chongqing involves domestic Chinese politics for perhaps the rivalry for who will succeed the current leaders in 2012. There are many reasons why the Chinese call their legal system a political legal system. It's not a legal system, but it's a political legal system.

And if you are unfortunate enough to be prosecuted for a political offense, you suffer not only the inadequate protections of ordinary criminals, those alleged to be criminals in China, but you have additional handicaps. In my statement, I recite a litany of defects in the current Chinese criminal justice system that denies people fair trials.

And if you're a political offender, your situation is worse off because your trial will often be closed to the public, even to your family, and recently, even if you're an American citizen, to American consular representatives. Even when they're open in principle, they're often not open in reality. Lawyers who wage a vigorous defense in cases of this nature themselves risk prosecution, disbarment, or other sanctions.

In sensitive political cases, those who hear the case don't make the decision. The decision is made often by court leaders who may know very little about the case. The whole process of political prosecution is generally under the supervision of the Communist Party political-legal group.

Now, we shouldn't only worry about criminal justice in China for punishing political offenders. We have to worry about a range of sanctions that aren't called criminal. Reeducation through labor enables the police, on their own, to put away any political criminal or anybody who asks too many questions for as long as three years, and that can be extended to four. There are some similar sanctions.

But then there are shorter sanctions that intimidate people. Petitioners who prove too irksome and find no outlet for their petitions often get locked up in "black jails." These are unauthorized penal institutions and they do not have very good regulation, and there are many abuses that occur there.

There is a great deal of low-visibility harassment of people who are not formally locked up. They may not be put in a mental asylum. They, however, may find their daily lives are severely constricted. Some lawyers lose their right to practice law, even though they may not be locked up.

Political offenders who have already served their criminal sentence are themselves under continuing restraint, very often. Some have also been sentenced to deprivation of political rights for a year, or up to five years. That means they can't do very much. After that period of deprivation is over, these people are often subjected to continuing surveillance, house arrest, restriction of any

meaningful life with no legal authority whatever. The former Shanghai lawyer Zheng Enchong, whom I managed to visit in May, can't really leave the house. He's been restricted for years.

I worry about the forthcoming release of the famous "blind man," the barefoot lawyer, Chen Guangcheng, who, on September 9, will conclude four years and three months in prison on trumped-up charges.

Chen Guangcheng had been protesting birth control law violations by the local authorities and they put him away. He used to say to me, "What do they want? I want to use legal methods to solve these problems and there's no outlet, and look what they do." The question is, what will happen to him on his release September 9?

Chairman DORGAN. Did you visit him in prison?

Mr. COHEN. No. He's not allowed. It was very difficult, even for his wife to visit him. I visited him just before he was detained in his local village. Afterward, he was under constraint. Before they even invoked the criminal process he'd had over 100 people surrounding his house 24/7. His wife lives under that kind of restraint today.

What we discovered is that his five-year-old daughter cannot enroll in the village school now until his political problem is settled. This is a very disturbing aspect. Traditional China used to have collective punishment. An offender's family would also suffer severely, sometimes through two generations, or three. China has abandoned that barbarity in principle, but in practice we see the families of many of these political offenders suffer.

In New York now you have the daughter of an ex-lawyer from Shanghai, Zheng Enchong. She was told she has no future if she wants to go on to university. But to deny a five-year-old child the opportunity to start education because her father has been a political offender and to use her as a tool in an evident blackmail negotiation that will begin September 9 to try to curb his activity is a disturbing trend.

So we have the whole range of, who are "political people" and who are "prisoners." "Prisoners" can embrace many people. One concept would say, if you can't go back to your country because you've been excluded for over a decade, in a way you're a prisoner in the United States because you're excluded from your own society. So the breadth of this topic is breathtaking.

Now, foreigners get involved in the system, too. That's the significance of the Xue Feng case. I can't go into detail in my opening, but it's in my statement. But one thing we've seen, foreigners usually, like Xue Feng, have the benefit of a consular convention between the United States and China, and that convention needs some repair. I criticize the U.S. Government in certain respects for its own conduct on consular conventions.

Finally, you asked, quite rightly, what can we do? One of the few things we can do, is do a better job on the official U.S.-China dialogues and the official U.S.-China expert dialogues on human rights. These have been pretty unimpressive, even when they occur. They're frequently interrupted. Also, people talk past each other and not much has happened. We have a new administration

that is trying hard to make these more meaningful dialogues, but it's very difficult to accomplish that.

In my statement, I make some suggestions for how to improve these official dialogues. For example, they should discuss concrete cases. Chinese officials love to talk abstract principles. They don't like to talk reality of concrete cases, such as the one you mentioned of lawyer Gao Zhisheng.

Also, we need the participation of higher level leaders. We ought to try—it seems like a way-out idea, but I don't think so. It's worth trying—to get those who really make the human rights decisions in China to take part in some of these dialogues. Have the head of the Party National Political Legal Committee, Mr. Zhou Yongkang, for example, who is a member of the Standing Committee of the Politburo, have him come and spend a day or two exchanging ideas with a counterpart. We would have to produce significant people. We should have the head of the Supreme Court, the head of the procuracy, the head of the Ministry of Justice. These are officials the Party has great confidence in who make the decisions. We ought to have access to them.

I have a number of other suggestions, but I would only say we should encourage the efforts of the State Department to try to make these dialogues more meaningful, to open up the experts' dialogue to people who are not officials but know a lot about what's going on, and to encourage, apart from the official dialogues, the NGO dialogues that are beginning to take place, so-called Track 2 dialogues. Track 2 normally implies non-officials.

On the Chinese side, they end up being pretty official, but I don't mind that if we can get a range of people into this process of discussion in a more informal way. So there are many things that can be done, and I hope this hearing helps to stimulate them.

Chairman DORGAN. Mr. Cohen, thank you very much. I've read your testimony and I appreciate very much your summary of that testimony today, which I think is very insightful.

Joshua Rosenzweig, Senior Manager for Research and Hong Kong Operations, The Dui Hua Foundation.

Mr. Rosenzweig, thank you very much.

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

STATEMENT OF JOSHUA ROSENZWEIG, SENIOR MANAGER FOR RESEARCH AND HONG KONG OPERATIONS, THE DUI HUA FOUNDATION

Mr. ROSENZWEIG. Thank you, Mr. Chairman. I am privileged to be invited to participate in this hearing today, and I'd like to thank you, your fellow Commissioners, and the CECC staff for inviting me.

The Dui Hua Foundation has been engaged for over a decade in efforts to uncover the names of individuals imprisoned in China for the non-violent expression of their political and religious beliefs. Our database of prisoner information includes names of roughly 22,000 persons imprisoned for these reasons since 1980, of which more than 5,800 form an active registry from which we develop prisoner lists designed to raise individual cases directly with the Chinese Government and encourage better treatment and early release.

I'd like to start by discussing trends in political imprisonment in China. Since roughly the beginning of 2008, there have been clear signs that earlier progress toward rule of law in China has stalled, or even suffered a reversal, and there is mounting evidence that a crackdown is well under way, one particularly targeting members of ethnic minorities, government critics, and rights defenders.

Evidence of this can be seen in the recent sharp increase in criminal proceedings for endangering state security, a category of crime that includes vaguely defined and arbitrarily applied offenses such as splittism, inciting subversion of state political power, and trafficking in state secrets for overseas entities.

State security arrests more than doubled in 2008 compared to the previous year, and more arrests and indictments for endangering state security were carried out in China in 2008 and 2009 than in the entire five-year period preceding.

Recent statistics suggest that as many as 1,500 Chinese were convicted on state security charges in 2009, more than three and a half times the number five years earlier. In the Appendix to my written statement, I show the data behind this trend.

Moreover, China's Supreme People's Court recently announced that these individuals are being punished more harshly, with a 20-percent increase in sentences of at least five years' imprisonment in 2009. That includes people serving life sentences and being sentenced to death as well.

One of those sentences was given to Liu Xiaobo, whose 11-year sentence for publishing critical essays on overseas Web sites and helping to draft the Charter 08 political manifesto is the longest sentence known to have ever been handed down for inciting subversion. Evidence suggests the majority of those punished on state security charges are members of the Tibetan and Uyghur ethnicities, many of them detained for engaging in non-violent criticism of government policies.

The targets of political repression can expect no constitutional or legal guarantee that their rights will be protected during the proceedings against them. Defense lawyers, as Professor Cohen says, face numerous obstacles in simply trying to get access to meet with detainees or to get access to prosecution evidence before a trial, and their defense arguments in court fall on deaf ears while decisions about defendants are prepared by Party-dominated adjudication committees, sometimes even before a trial has even taken place.

Once imprisoned, these individuals are seldom offered any clemency through sentence reduction or parole, victims of a pattern of discrimination based on policies of strict handling and a system that equates good behavior with admission of wrongdoing. This extends also to medical parole as well, even for gravely ill individuals such as Hu Jia, Li Wangyang, or many others.

You mentioned the disturbing case of Gao Zhisheng, Mr. Chairman, and I appreciate the work that this Commission has done and the personal interest that you yourself have taken in this case. Unfortunately, it appears that more work will need to be done by all of us in order to guarantee Mr. Gao's freedom and safety.

I believe that the situation that I have described here is a consequence of the Chinese leadership's acquiescence to a hard-line

element within the Party that sees harsh criminal justice measures as superior to building rule of law as a means of maintaining stability. Their dominance has been at the expense of those who support moving more resolutely along a path of reform and who feel frustrated by the recent lack of progress and growing reliance on repression in China.

Now, I believe that an important goal of our collective human rights engagement with China should be to support the efforts of this second group, particularly at a moment such as this when they feel the most embattled.

In my written statement I offer some concrete recommendations for U.S. Policy: Enhancing the bilateral human rights dialogue with China, playing a more active role in the human rights institutions of the United Nations, and making more frequent use of this Commission's excellent, and now enhanced, Political Prisoner Database to prepare prisoner lists for use by Members of Congress in their interactions with Chinese officials. In the interest of time, I will defer a detailed discussion of these recommendations until asked to do so later in the hearing.

Finally, Mr. Chairman, I'd like to thank you again for your leadership in this area and to pay tribute to the longstanding and close working relationship that Dui Hua enjoys with this Commission, and I look forward to your questions. Thank you.

Chairman DORGAN. Mr. Rosenzweig, thank you very much.

Dr. Wan, I've already introduced you. You have a medical degree from Shanghai Medical University School of Public Health, you've worked extensively in Citizens Health Rights Education in China, and we appreciate very much your willingness to be here and testify. I understand as well, and I think you do at the same time, that there is some jeopardy for you to speak publicly. We appreciate, nonetheless, your willingness to do that. I'll ask you about that during the question period, but Dr. Wan, why don't you proceed?

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

STATEMENT OF WAN YANHAI, DIRECTOR OF BEIJING AIZHIXING INSTITUTE, EXPERT ON HIV/AIDS, HUMAN RIGHTS AND CIVIL SOCIETY IN CHINA

Dr. WAN. Yes, Senator Byron Dorgan. I am Wan Yanhai, Director of Beijing Aizhixing Institute. I've been working on, actually, HIV/AIDS prevention and care for 20 years, since 1990. My organization, Beijing Aizhixing Institute—has been working on HIV/AIDS, human rights, and civil society development in China for 16 years, since 1994.

In the summer of 1994, I had a meaningful conversation with a psychiatrist in Beijing—a good friend—that influenced my philosophy about serving people. When told I was being monitored by the security agency in China, I said I did not care, and I could still manage my work from jail.

The senior doctor said that if I am sacrificed, nobody benefits. If I'm sacrificed, I would not be able to work. It's a loss. So to continue to keep on with my work that is helpful to others, I need to protect myself.

This philosophy has guided my approach of dealing with the security agency in China, so with great effort and careful attention I've managed to keep working in China for the past 16 years. In the past 16 years, I was briefly detained from August 24 to September 10, 2002, and November 25 to November 28, 2006, and December 27 to December 28, 2007. I left China because of security concerns in general in 1997, October 2002, and May of this year, but most of the time I've been working in China.

So today, while I'm sitting here and not in prison, I have to say that I benefited from the following factors. First, actually, AIDS is a public health concern which the Chinese Government may also care about. Second, I used to work at the Government Health Education Institute, where I became known to the public and also established good working relations and friendships with individuals in the government.

Government officials who were friendly may also help. The international media coverage also offered some support and protection, but I also carefully managed my own activities and took a sensitive approach in the language I used surrounding my work.

I don't know whether these are the reasons for my success or failure, but I'd like to share them with you. First, to be transparent, don't hide. So that is a general approach of my activities to be transparent. Second, to understand that all your activities are monitored all the time by security and we need to be careful and be sensitive all the time. Third, use a professional approach and polite language. Fourth, to avoid personally offending the police and keep in communication with them. So, when arguing with the police, argue with them on logic, not about the order of things. So, understand and be aware of friends and allies inside of the government and be critical not just on Chinese issues, but also be critical of other countries.

So when I was detained by the Beijing State Security Bureau for releasing a classified document from August 24 to September 20, 2002, and also detained by the Beijing Public Security Bureau in November 2006, the investigation was similarly focused on my funding sources and relations with human rights groups and the media and the information provided to foreigners. In 2006, the focus of the investigation was on my relationships with overseas foundations and the human rights defenders inside of China.

As a non-governmental organization [NGO] receiving foreign donations, I was really careful when answering questions and insisted that I was serving the Chinese people and China, and we happened to receive foreign donations. We also applied for Chinese Government funding, although we haven't received much funding from the government side.

While in detention, I was careful in my use of language and tried not to offend the police. Sometimes we chatted. When they asked questions, I seriously thought about my response before answering. I told the police officers that I was serving the people. If my work became too difficult, I could give up. I cooperated with a bottom line that I should not harm the third Party. In talks over tea or meetings in my office with security agents, I was more open and frank and questioned the security department or government policy in general.

As a leader of an organization, we manage the organization in a transparent and a professional way and based on the law. We anticipated that the Chinese Government would come to investigate any day. So our work, however, has been severely damaged by the government's raid. Our work to get compensation for those infected with HIV/AIDS through blood transfusions was canceled in November 2006.

Many other events were also canceled and we psychologically felt bad. We stopped working a month before the Beijing Olympics. For a month, we stopped working before the People's Republic of China's 60-year anniversary. We had to politically censor ourselves, which might damage our solidarity with other organizations.

I left China via Hong Kong on May 6 this year, after being harassed by multiple government agencies. In the first six months of 2010, our organization received pressure and harassment from about 10 government agencies, including Public Security, State Security, the Tax Department, the Department of Industry and Commerce where we were registered, the Propaganda Department, the File Department, et cetera. Human rights advocacy and civil society groups are developing rapidly in China, but human rights defenders and civil society groups are under surveillance and recently under attack by the Chinese Government.

How can the U.S. Government make a difference? First, U.S. AID [U.S. Agency for International Development] programs can make a difference, but currently I don't know whether the United States has a clear strategy to support civil society groups and human rights defenders. Should the United States have an evaluation of its current AID programs in China from a human rights perspective?

Second, information and Internet freedom is crucial in empowering people and protecting people, but if people are not well organized, information itself cannot work. The United States should strengthen its work in supporting people in China in their efforts to organize in a way that is based on democratic laws and principles.

Third, the United States should guarantee that the U.S.-based businesses will not be used to persecute human rights defenders and civil society organizations. Companies involved in the information censorship of the Internet—information to the Chinese people—should be punished in a democratic world.

Thank you.

Chairman DORGAN. Dr. Wan, thank you very much. We appreciate your being here and your statement.

Next, we will hear from Dr. Sophie Richardson, who is the Asia Advocacy Director of Human Rights Watch.

Dr. Richardson?

[The prepared statement of Dr. Wan appears in the appendix.]

STATEMENT OF SOPHIE RICHARDSON, ASIA ADVOCACY DIRECTOR, HUMAN RIGHTS WATCH

Ms. RICHARDSON. Thank you, Chairman Dorgan, for convening this hearing and for your continued leadership on these issues. It is equally an honor to be here with you this morning and to work

with your staff as it is to be with such a distinguished group of fellow panelists.

I'm going to summarize my remarks to leave time for questions. We have written extensively over the past two decades about a number of very high-profile political prisoners, including Liu Xiaobo, Gao Zhisheng, Chen Guangcheng, and Rebiya Kadeer, the Panchen Lama, Tan Zuoren, Huang Qi, the list goes on and on.

Today I want to highlight two individuals whose cases have gotten rather less attention, but whose treatment we believe represents an alarming development, extraordinarily harsh sentences given to those who are not dissenters or critics, but who in many ways embody the characteristics that the central government says it wants.

Karma Samdrup is one of the largest private collectors of Tibetan antiquities in China. He financed an environmental protection organization, the Qinghai Three Rivers Environmental Protection Group. Over the years, the group has won several awards for its work and he was praised in the state-run press. However, he was arrested in Chengdu, Sichuan Province, in January 2010 on charges of robbing graves that dated back to 1998. Karma Samdrup's relatives and friends believe that the revival of the decades-old charges stem from his efforts to gain the release of his brothers, who had fallen afoul of local officials by criticizing their involvement in violating environmental protection laws. In June 2010, Karma Sondrup received a 15-year sentence.

Gheyret Niyaz, who you mentioned in your opening statements, is a Uyghur journalist and the editor of a popular Web site called Uighurbiz. He was detained in October 2009 on charges of endangering state security, and on July 23, 2010, was also given a 15-year prison sentence. His so-called crime appears to have been giving an interview to the foreign media after the July 2009 ethnic violence in Xinjiang, although in those discussions Niyaz cited economic inequality and the role of outside instigators, which is the government's line in the unrest.

Although over the years we have observed seemingly random persecution of individuals who appeared to pose no overt threat to the Chinese Government, the charges and lengthy sentences of these two men, we believe, should ring alarms. The two cases suggest a new twist in the nature of political imprisonment, which is a theme that Professor Cohen raised, that one can embody the qualities that the government claims it wants, people who are reasonably apolitical, entrepreneurial, and involved only in soft, state-approved causes, only to find themselves arbitrarily deemed a threat to state security.

Put more simply, if these people are considered threats to the State, who does not fall into that category? How can people avoid such charges? Should they not be in business? Should they not support government-sanctioned causes? Should they stop speaking entirely?

At the same time, we cannot forget the untold numbers of political prisoners whose names we do not know, those who are arbitrarily detained in the wake of the March 2008 protests across the Tibetan plateau and those who are similarly held in "black jails," the facilities that Professor Cohen mentioned earlier.

We must make a particular effort not to forget those in Xinjiang who are the victims of enforced disappearances, meaning state-sponsored disappearances, in the wake of protests in that region and demand account for them, and we must not forget individuals such as Liu Xiaobo who committed the audacious so-called crime of asking the Chinese Government to uphold its own Constitution and laws, or Cheng Guancheng, who did nothing more than try to take the Chinese legal system at its word.

All of these cases lead us to the conclusion that political imprisonment in China has reached new lows of arbitrariness and that therefore all behavior may be subject to some kind of reprisal from the government. Your business success today might be a liability tomorrow. Your call to end unrest last year may land you in hot water today. Your approval from the government at any point is no guarantee of a life free of persecution.

The United States should remain profoundly concerned about the Chinese Government's persecution of its citizens. Until peaceful dissent is tolerated, the country cannot be expected to be predictably transparent or stable.

But in its vast relationship with China, the ever-more arbitrary nature of political imprisonment should serve as a reminder that many of the U.S.' other goals and interests—the rule of law, a predictable trade regime, the development of civil society—are at risk so long as those in China who share those views and goals are considered potential threats by their government.

What can the U.S. Government do? We offer four recommendations here today, and I would be happy to elaborate on these. First, Secretary Clinton should make a strong, explicit statement that the United States is concerned by the noticeably worsening human rights environment in China. Continuing to say, as seems to be the preferred phrase, that the Unted States and China agreed to disagree over human rights issues is profoundly unhelpful.

Second, the United States should unambiguously reject the Chinese Government's attempt to force the United States to remain silent on Tibet and Xinjiang on the basis of the Joint Declaration's recognition of China's "core" interests. This may strike some as merely a semantic debate. It's not in Beijing, and it's rhetoric the United States needs to be very careful about.

Third, all senior administration officials should commit to raising at least one individual case in every meeting they have with their Chinese counterparts, particularly given the administration's claims to taking a whole-government approach to the promotion of human rights in China.

Finally, President Obama should welcome in the White House former political prisoners from China to give an unequivocal sign of support to China's fledgling civil society. Thank you.

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

Chairman DORGAN. Dr. Richardson, thank you very much.

Let me ask a general question first. Dr. Richardson, you said, at the end of your testimony, "a worsening situation with respect to human rights violations" or the "violations of individual rights in China." Mr. Cohen, you referred to that; Mr. Rosenzweig as well.

When we talk about this, we talk about trends. Is there empirical evidence that allows us to say things are getting worse on this issue in China, even as China becomes a larger and larger part of the commercial world and there's a lot of travel back and forth, and so on? China is increasingly seizing people, denying them their basic rights in China and throwing them into prison. So we say it's getting worse. Is there empirical data to back that up or is it just our notion that the trend is a bad trend? Dr. Richardson?

Ms. RICHARDSON. Senator, I guess I would answer that question in two ways. I mean, one of the best pieces of empirical information is sitting next to me. The fact that the space for civil society in China and organizations that were recognized and tolerated, even encouraged by the government for 10, 15 years, organizations like Dr. Wan's, organizations like Guo Jianmei's, organizations like Gongmeng, the Open Constitution Initiative, which is funded by Yale, these kinds of organizations have come under tremendous government pressure in the last 18 months, having been approved of for so long, I think is one quite telling indicator.

The other way I would answer the question is simply that if you asked people, I think, 10 or 15 years ago what behavior they needed to refrain from engaging in in order to stay out of hot water, people can give you a pretty straightforward and reasonably reliable answer. I think that that can't be answered so easily anymore is what worries us.

Chairman DORGAN. All right.

Mr. Cohen?

Mr. COHEN. As I said, China remains largely non-transparent, although inroads have been made in various ways. You properly mentioned the Internet as a prominent one. We have statistics to some extent. They're not sufficient, but they certainly show a trend. Mr. Rosenzweig has provided them. I think that's useful.

There are other ways. We know the 17th Chinese Communist Party Congress, held almost three years ago, enunciated policy changes that have been practiced now by the legal elites that operate according to them: judges, prosecutors, officials, law professors, lawyers. They all are expected to conform to the new doctrine, and the new doctrine is regressive. It is in large part a return to the ideology of the pre-1949 liberated areas when China controlled roughly 90 million Chinese in rural areas.

Not only has the policy tightened up, there's also a lack of emphasis on those features of the system, like defense lawyers, who can alleviate some of the hardships of the policies. If you read the speech of the head of the Party Legal Committee for the country, it's as though you're back in the 19th century. He never mentions the existence of defense lawyers, only the need for better repression through the police, prosecutors, officials, and judges.

Finally, it is very important, I think, to recognize what is seldom recognized. These are not only policy changes, but there have been many appointment changes, personnel changes, where people more sensitive to professional legal considerations to government under law, rule of law, have been replaced by Communist Party apparatchiks who really see law only as an instrument of current Party policy.

Chairman DORGAN. Mr. Rosenzweig, you use some data, and you'll probably reinforce that, but it is also perhaps the case with the Internet, that some of these cases can ricochet around the world quickly by the Internet for those of us that care about who is being railroaded and who's being sent to a prison for exercising their right to speak. I guess the question is, is there just more transparency, via the Internet and the media, which allows us to see who is being shuttled off to prison, or is it, in fact, the case that the trend is increasing in political imprisonment?

Mr. ROSENZWEIG. I think the Internet plays a role in several different ways. First of all, I think over the past, say, 10 years, it's true that a large proportion of political speech, political activity, so to speak, in China has migrated to the Internet, takes place on the Internet, which on the one hand makes it easier for us on the outside to follow it and to track it. It also makes it, I would say, easier for the government to track it as well.

So the fact that people are migrating this political space to the Internet both increases the channels in which that kind of discussion can take place, but it also makes it easier for that activity to be curbed. It also creates the opportunity for us to learn about those cases. So there is a certain extent to which the increase in the amount of information that comes out of China—especially compared to 10 years ago—about these kinds of cases, does play a factor in increasing our awareness.

But if you compare the amount of cases that we know about, through whatever channels, where we actually know the name of a person that has been detained in China for these types of offenses, if you compare that to the kinds of numbers that the Chinese Government provides, and there are very broad statistics that they do provide, it's still a tiny fraction. So in other words, we are learning more of the names of people who are being detained for these kinds of offenses, but as Dr. Richardson says, there are still a large number of cases that we don't know about as well.

Chairman DORGAN. Dr. Wan, when you left China in May of this year, did your family leave with you?

Dr. WAN. Yes.

Chairman DORGAN. And when you left in May, you had previously, I believe, left the country on two other occasions.

Dr. WAN. Yes.

Chairman DORGAN. Why did you decide, in May, that you needed to leave China?

Dr. WAN. Yes. In March, we received a visit and pressure from multiple governmental agencies and that is quite unusual. So as a large NGO which received a large amount of donations from foreign foundations, especially from the United States, it could be a risk.

Chairman DORGAN. Did you fear being arrested at that point?

Dr. WAN. Yes. Yes.

Chairman DORGAN. You had been arrested twice before and put in jail for short periods of time. Is that correct?

Dr. WAN. Yes. In 2003, it was four weeks. In 2006, it was three days. Yes. Yes.

Chairman DORGAN. You have come to this country, and I think all of us understand that you do very significant work in China on

the subject of HIV/AIDS, just as an example. Why on Earth would the government view that work as potentially subversive or view those engaged in that work as needing some extra surveillance? Is it because, as you implied, you received some funding from U.S. charities or some other assistance from the United States?

Dr. WAN. I think China might have some big strategy change. Before the Olympics, China developed really strong security capacities. After the 60-year anniversary of the Chinese Communist regime, you might think about the 100-year celebration, so they might think of longer term strategies as a part of the plan, a new wave of crackdown against civil society, and it's really over with, like the long-term Women's Legal Education Center. Beijing University was sponsoring the Women's Legal Education Center, which is totally not a political organization.

So the Women's Legal Education Center worked closely with the government and always tried to push people to work along with government policy. But they received huge pressure from the government. So, like Oxfam Hong Kong, also got pressure. Oxfam Hong Kong worked with the government and has been subject to really strong political censorship.

So even this type of non-political organization received pressure from the government. This is the issue. There are some other issues. My colleagues, after I left China, two lawyers who are now managing our office, both received threats from the police that they might be arrested.

Chairman DORGAN. Just a couple of questions of you, then I want to go back to others on the panel. Is the rate of HIV and AIDS in China substantial as compared to this country, for example, or other countries in the world? Is it growing?

Dr. WAN. In general, information on the epidemic is not transparent. So we know three waves of the epidemic. The first is the HIV/AIDS epidemic among drug users. The epidemic among drug users was first found 20 years ago in China in the border areas. So now it's a national epidemic among drug users, especially among the ethnic minorities.

So the epidemic among drug users mostly happens in ethnic minority areas, like Yunnan, Sichuan, Guizhou, Guangxi, and Xinjiang. So in the urban cities among the Uyghur minorities, and also in other minorities, AIDS infection is very high, as high as 50 percent of injecting drug users among Uyghur migrants in Beijing might have been infected. It's a national phenomenon.

So another epidemic is like in the mid-1990s and it's among blood donors. It mostly happened in central China, like the Hunan Province. After the infection among blood donors, a lot of people who received a blood transfusion or received blood products have been infected. So most people suffered a lot in—and in legal aid, and many of them have been jailed. So, I provided two documents about the hemophiliacs and also the blood victims. So those people took a lot of legal actions and petitioned for compensation, and many of them have been detained and arrested on different types of criminal charges. So now there's a third wave of epidemic among the gay communities. Yes.

Chairman DORGAN. All right.

Just two very brief questions, and then I'm going to go on to others. You have not sought political asylum in this country.

Dr. WAN. No.

Chairman DORGAN. All right. Do you believe, given the fact—I think the New York Times did a very substantial story about your work in China and you now have volunteered to come and speak about your experience here publicly in Washington, DC. Do you believe you would run into significant difficulty going back to China?

Dr. WAN. Yes. Without testimony here, I think even if I go back to China I would be in a difficult condition for now. But I think it's possible for me to go back to China in the coming future. The Chinese civil society and democratic forces are developing rapidly, and I think it's a key moment for Western societies to give a hand to support human rights and defending civil society organizations and the general democratic parties in China. Yes.

Chairman DORGAN. This is an important moment, I think, for a lot of reasons. But I would just say we've had others testify before our Commission who have given testimony much more aggressive than yours. You've been pretty straightforward about your experience. The fact is, you do not gain much favor in China by doing so and I think risk arrest upon going back to China. We appreciate, for that reason, your courage to come and to share with us your experience.

I want to ask a couple of questions of the other panelists as well. Mr. Cohen, perhaps you first, then the others. How much of this political imprisonment that we talk about—Gao is a good example, but there are many others that we've just described—is directed from Beijing and from the central government as opposed to being driven by errant local law enforcement officials or political officials at the local government who believe they're serving the best interests of their centralized Communist government by taking a look at these NGOs and these individuals as being suspect or deserving harassment? So, how much of it is directed, do you think, from Beijing?

Mr. COHEN. There are different levels to appreciate. One, is the central-local level. The center classically enunciates a policy or a law that's an enlightened one. The local people frustrate it. That's the traditional Chinese saying: The center has its policies, the locality has its methods of avoiding them.

So there are terrific tensions in China along those lines. The Ministry of Public Security, for example. Under its previous head, who is now head of the country's Political Legal Committee, the ministry took many measures to try to strengthen their control over the local police. Similarly, with the courts, the central court apparatus does not enjoy strong control over the local courts. It's very different from Japan, where you have a central secretariat that moves judges around like chess pieces, that appoints them, that pays them, promotes them, and if necessary, disciplines them. So there is a legitimate central-local problem.

But it goes beyond that because often the center puts out conflicting policies. On the one hand, it says you must observe the following niceties in protecting people with respect to enforcement of birth control laws. It tells that to local officials. At the same time, it puts out policies that say to local officials, if the number of births

in your district exceeds *x*, you're going to be fired. So it tells them on the one hand, always observe the law. On the other hand, they feel if they do observe the law, the number of births will exceed *x*. So, then they have to choose. Do they observe the central law or do they violate the central laws on criminal law and criminal procedure and abuse a lot of people to make sure the goal of no birth reaches *x*, and they usually choose the latter. So it's a conflicting central policy.

The third confusing aspect is, who is the center? The center often has conflicting agencies, they have conflicting policies. Who are you going to listen to? One ministry may take one position, another ministry may take another position. You find even struggles between the court and the procurator, for example.

Chairman DORGAN. But is there any doubt, for example, Mr. Rosenzweig, that the case of Mr. Gao, and many others here, and in the database, that the prosecution of these high-profile cases is supported by, and perhaps directed by the central government?

Mr. COHEN. I don't have any doubt whatever. They may not have started that way.

Chairman DORGAN. Right.

Mr. COHEN. But once they rise to the level of visibility of concern here and elsewhere, these are national policies. When they started with the "blind man," whose picture I'm glad to see you have, Chen Guangcheng, I tried to see, it was a local persecution only.

I wrote an article in the Far Eastern Economic Review that was an open plea to the Ministry of Public Security: Is this what you want your local public security people to do? Is this how China is going to demonstrate to the world how civilized it is? I asked them, in effect, to intervene. There were meetings between the center and the province and the locality. There were meetings in the provincial capital, apparently. But in the end, the local people prevailed.

For political reasons, the center didn't want to be seen to be interfering with the important birth control policy. But when it gets to this level, the center makes the decision. But who is the center? It's not the Ministry of Foreign Affairs that can't even give you a straight answer about what happened to Gao. They're constantly asking the Ministry of State Security, what should we tell the foreigners? We have a press conference tomorrow. What are we going to say? Then they are given lines to read, some of which are just facetious. They're ridiculous, or they would be if it weren't so serious.

Chairman DORGAN. When this Commission, or when I write to the Chinese Ambassador to the United States a specific letter or set of letters about specific prisoners, in this case Gao, my assumption is that those official communications from the U.S. Government go to the central government in China. While the cases may have emanated somewhere else, may have started somewhere in the provinces, the justification for and the defense of what the Chinese have done with Gao, that decision is made at the central government, my guess is.

Mr. Rosenzweig, you have been very helpful to us as well with information about Chinese prisoners. I asked you about trends. What kinds of things can we do at this point to continue to drive

a higher profile on this issue of human rights in China and our great concern about the treatment of these individual prisoners?

Mr. ROSENZWEIG. Well, there's some structural things that can be done—Professor Cohen has mentioned this as well—with regard to the human rights dialogue. Increasing the frequency of the human rights dialogue, I think, would be an important step to take, not only to signal the importance with which the United States treats human rights issues in China and treats these cases of political imprisonment in China, but also to allow for the development of better working relationships with Chinese interlocutors that may yield better results.

The fact that the human rights dialogue has not been active over the past several years, I think, has created a situation where communications between the two governments on human rights issues have not gone very smoothly.

One thing about the dialogue, I think, that would be important, something I feel somewhat strongly about, is, I guess, the tone of the dialogue. I think it's important, when we talk about engagement with China on human rights issues, to emphasize critical engagement, which doesn't mean, as Dr. Richardson says, agreeing to disagree. It means something quite different from that. It makes the disagreements that we may have on human rights issues part of the process and recognizes that the disagreements and working through those disagreements is necessary in order to achieve progress.

And why that is important is because I think that over the past several years—and this is not only true of the United States, I think this is true of European governments as well—there has been some confusion about how to engage with China, a rising China, as we say, on human rights issues when there are so many other things that we want to talk with China about that are also important, as important if not at some times more important than human rights issues, although I think human rights issues are so broad that human rights can be part of many dialogues.

But I guess the thing that I want to say is that it's my feeling that the Chinese Government may not agree with us all the time on our positions with regard to human rights, but I think they respect a consistent message, as opposed to a message where we downplay human rights at certain times.

I think that feeds into a sense that we, the United States, or our European friends, don't actually treat it as seriously as we say we do. So our consistency with regard to our commitments to human rights, I think, is perhaps one of the most important things that we as a government can do.

Chairman DORGAN. I want to ask Dr. Richardson about the case of Xue Feng, an American businessman who is now in prison in China. My understanding is that he was arrested and then convicted of a law that was passed after he had been charged. This is an American businessman that was involved in a commercial transaction in China, a transaction that he was not aware was illegal.

The information that he acquired in China, that is, the location of oil wells and so on, was apparently widely and publicly available in China for sale on Web sites. After he purchased that informa-

tion, he was detained, and Mr. Cohen has talked about the abuses surrounding his detention and the need to change the U.S.-China Consular Convention to better protect American business people in China.

That's a long question by way of asking, with more and more business being done in China by U.S. citizens, does this case portend some real concern about the future? Might some U.S. business people believing they're doing something that's perfectly harmless in China wind up in prison for those commercial activities?

Ms. RICHARDSON. I'll see if I can give you a straightforward answer to that question. Xue Feng's case came on the heels both of a roughly similar case against executives of the Australian mining company, Rio Tinto, and the primary person in that case who was accused was a naturalized Australian Chinese. The other three were Chinese citizens. The lead protagonist there was also charged originally with state security crimes, and those were later ratcheted down to economic espionage crimes.

But these are the kinds of cases that we've seen more where businessmen who were engaged in activities they seemed to think, ostensibly, at least, are legal, then to find out the hard way that somebody doesn't agree with them about that. One of the alarming aspects of the state secrets laws in China is that they're incredibly elastic and they can be used to charge people for all sorts of behavior for which they can't even see the evidence that's presented against them. They can't have access to counsel or family members. These are real problems that I think we will see more business people bump up against.

At the same time, it's probably also worth mentioning that earlier this year the Chinese Government, or it was at the very end of 2009, for the first time in 50 years, the Chinese Government executed a foreigner, a British man of Pakistani descent who was desperately psychiatrically unwell and who had been found guilty of trafficking drugs. He, too, was not given the kind of consular access he should have been. He was not given access to appropriate physicians. The British Government intervened to no avail.

We have all sat here and talked a great deal about the kinds of abuses that the Chinese Government regularly metes out against its own citizens. I think people should pay more attention to the fact that we're starting to see some of those abuses be meted out against other people's citizens, too.

Chairman DORGAN. Let me ask, why would the work of Dr. Wan be targeted in any particular way? Dr. Richardson, you are observing this from the outside. Why on Earth would the Chinese Government take a look at a group of people that are working on HIV/AIDS and decide there might be problems with respect to running afoul of the government dictates here?

Ms. RICHARDSON. Well, I think it goes back to a comment that you made in your opening remarks, Senator, about how today's political prisoners are perhaps tomorrow's leaders, that some of the people we're seeing persecuted are precisely the kinds of people who have the inclinations and the expertise and the organizational capabilities to address some of the most pressing problems inside China. Why are they perceived as a threat to the government? What they do is embarrassing. It shows ways in which the central

government has failed to answer certain kinds of problems, or even acknowledge that they exist.

In some instances, these organizations' work exposes evidence of local corruption. It's not immediately controlled by the local authorities and that can sometimes unnerve them. In a style of government that really knows only two strategies to deal with problems, which is either to co-opt them or to crush them, what we've seen is these organizations essentially getting shut down instead of being put to work for comparable purposes to what the government says it wants.

Chairman DORGAN. Mr. Cohen? And then I'm going to come back for a further question of Dr. Wan.

Mr. COHEN. I wanted to help answer your initial questions about the American businessman of Chinese descent. First of all, in these cases, state secrets and similar ones, it's impossible for the outsider to know what has taken place. Was the conduct harmless, was it not harmless? There is no way to know. Documents he's accused of acquiring were not labeled "secret." There was no obvious way. After the person is detained, the police get a certification from the National State Secrets Bureau that says, "Yes, these are state secrets. He should have known about it."

Then comes the court hearing. Are you allowed to see the documents? Are you allowed to challenge whether or not they should be state secrets? Can you produce witnesses? Can you cross-examine those who certified the documents as secrets? None of those things is possible. It's an *ipse dixit.* You're told, this is it, you should have known it. It isn't the law that was changed. The law is so broad, change or not is irrelevant. It's the application of the law by the agencies involved and it's an ex post facto declaration that is unchallengeable. This is a state secret.

Now, if there were transparency, if you had an open trial, if you had a fair opportunity for defense, then there'd be some way to say, were these state secrets or not? Was this man damaging the interests of China or not? But we don't have that. That is a very sad situation.

Second, I should say we have to be aware that our own conduct influences Chinese perceptions. We can't merely preach at them, that they're not playing by the rules or they're losing by the failure to play by the rules. I personally feel, if China were transparent, people would see some of these cases do involve violations by any government's point of view. I've been involved in a number of these cases.

In some, the persons involved were spying for Taiwan. But nobody believes that in the outside world because the procedures are so unfair. We lump all these cases, and the people come out of China later with political help and portray themselves as legitimate scholars, hiding the fact of what they did, and China enables them to do it by this self-defeating Chinese policy of secrecy.

The other point is, our own government's behavior can really affect this. I was shocked to see that, in looking into the question of Chinese conformity to its obligations under the consular convention, that the U.S. Government is a rampant violator of consular conventions with other countries, not necessarily with China.

But when they see hundreds of cases where State and Federal Governments fail to notify detained foreigners, you have a right to contact your consulate, and fail to notify the governments of those detained people, you have a right of access to these people, even in death cases, what can people think of us? So it's not a simple question of only looking at China. We can't say "do as I say, not as I do." International law is based on reciprocity.

Chairman DORGAN. The mechanisms exist in this country to raise very serious questions in a significant way about practices in this country. The same is not true in China, and that seems to me the significant difference.

Dr. Wan, what do people in China, ordinary folks, know of the things we've been discussing here today? Do they know of the case of Gao Zhisheng? Do they know of the case of Chen Guangcheng, and other high-profile cases, or are they unaware of these men because there's not much information on them inside the country of China?

Dr. WAN. Most people receive information through the Internet, through social groups, emails. I think civil society organizations play a very important role to keep communication in these communities. So although most civil society organizations are nonpolitical, they play a really important role of networking and information sharing. So in general, people may not know the case of Liu Xiaobo or Gao Zhisheng, but many people on the Internet, people who are active on the Internet, they know the information. A lot of activists work on the cases.

Chairman DORGAN. Mr. Rosenzweig, can you give me some information about the number of Tibetans who may have been detained based on the protest that started in March 2008? Do we have any idea of what the consequences of that event have been?

Mr. ROSENZWEIG. I wish I could give you numbers that I would feel comfortable with, concrete numbers about that, but I can't. As we have said this morning numerous times, the empirical basis for our discussions of these questions is quite limited and to a large extent we are forced to rely on anecdotal evidence, combined with this limited data.

What I can say is that, based on the statistics that we've seen over the years and that we've collected over the years, it is clear that, for example, in the first half of the last decade, state security cases involving Uyghurs represented as much as two-thirds of the total in the country. This is in a normal year, by which I mean a year without a major uprising.

The fact that in 2008 we had an incident in Lhasa that grew to spread throughout the Tibetan plateau over a long period of time, where you had repeated reports of individuals being detained for taking to the streets and protesting—and when I say taking to the streets and protesting, for the most part I mean peacefully protesting, going out and shouting statements, handing out leaflets.

Then the following year, in Urumqi, an initial demonstration that turned into a very violent demonstration, for which many people have been detained. The fact that in these two years you've had incidents of that scale only increases the likelihood that we're talking about most of these detainees on state security charges being

either Tibetans or Uyghurs. We're talking numbers well into the hundreds in both years.

Chairman DORGAN. Mr. Cohen, you have been observing China back to the 1960s, as I understand it, and written about it. Give me your assessment of where we are at this point. We're having a hearing about human rights abuses and political prisoners. Still, in all, these issues are a subset of a country that has changed enormously.

So give me your assessment of where we are with China, what you expect these human rights abuses to mean to the future of China. Give me your assessment.

Mr. COHEN. The Party is the victim of its own conflicting policies. It's a paradox. On the one hand, since December 1978 when Deng Xiaoping and company decided they needed to have a great economic development, they decided they needed a formal legal system—not one that would subject themselves to law, but would create a legal system. They had virtually nothing then.

In 30 years, what they have done is impressive in terms of laws, regulations, other norms that come from international agreements, bilateral and multilateral, in terms of the reestablishment of strong institutions like the courts, the prosecution, arbitration organizations, in terms of legal education, which was nothing when I first went to China.

I remember in 1973, writing in the Harvard Law School Bulletin, "The first thing to know about the Chinese legal system, legal education, is that there isn't any legal education." Now you have over 700 law departments and law schools, hundreds of thousands of people imbibing the rule of law ideology, often American style, because the tens of thousands of law professors they now have essentially believe in what we have accomplished and what other democratic countries have accomplished.

You now have about 200,000 judges, 180,000 prosecutors, 170,000 lawyers, hundreds of thousands of legally trained people who, while not called lawyers, are staffing government agencies at every level in China. You have these law professors who are influential law reformers. Every business now that amounts to anything has to have legal advice, many of them have in-house counsel.

In other words, in 30 years there is an overlapping series of legal elites that didn't exist before. This is a broad constituency for law reform. Things are bubbling up, and these are the people, many of whom are frustrated by the post-17th Party Congress—you might say conservative, or I might say reactionary—line.

They're upset by being displanted, supplanted by Party hacks taking over their jobs. So this is impressive. The leadership has responsibility for creating this system and they have amended the Constitution to foster human rights, to respect property rights, et cetera.

On the other hand, three days a week they tell their people, don't take all this seriously. This is all bourgeois stuff. We will have our socialist rule of law with Chinese characteristics, and that means no real rule of law in the sense of law governing government officials. So it's a paradox. The intensity of that paradox is increasing.

It makes me go back to the original Hegelian-Marxist-Leninist thought which I never had much interest in about the unity of op-

posites, because you have two opposite trends in China now. They're increasingly coming into conflict. Although social-economic conditions are better, significantly better, those very successes breed more people who were dissatisfied.

Chairman DORGAN. It seems to me that the "opening" of China, going back some decades now, precipitated a series of changes you've just described. One, is the desire and the development of a market system to participate in the world economic order, at the same time, even as you develop a market system, you continue a Communist government with Communist control. There are certain tensions that are automatic with respect to that.

When you begin to integrate with the rest of the world in a market system, inevitably your institutions come under scrutiny, and should, and must. Because if we're going to do business there, we need to understand, with what capability can we do business and believe that business agreements will be honored.

Chairman DORGAN. I was in Hanoi, Vietnam at one point, speaking with the head of the Vietnam government, a Communist government, and then met with the American Chamber of Commerce in Hanoi. One of the things they said is, "We need more government here in Vietnam," the American Chamber of Commerce. I said, "Well, that is an unusual kind of request by a Chamber of Commerce group." They said, "What we mean by that is you can't do business in areas unless you have the ability to write contracts, have administrative law, go to court to enforce agreements, and so on. It's the only way you can really do business."

So when you open up a country like China or Vietnam, you must have those kinds of capabilities in place and the institutions with which to enforce the rule of law. Then those institutions will come under intense scrutiny. That's what is happening here.

That's why we have circumstances where substantial things have changed, China has moved, no question about that, the standard of living for the average Chinese has improved some, and we understand all the impact of that on the world.

There are probably several hundred million people in China who now aspire to drive an automobile at some point, and will be looking for a gas station once a week as well, just as they see the rest of the world doing. So all of these things have an impact on us, on China.

This issue of, with more scrutiny on their institutions, which should happen and is happening, and then the scrutiny of people like this sitting in the darkest prisons in the world on charges that ran them off to prison because they dared question their government. Is that of interest to our country? Sure it is.

I think what all of you have said today is that our relationship with China must be a relationship in which we understand our mutual responsibilities and we understand the economic alliances and various things that we do together, but we should always, in our relationship with China, continue this scrutiny with respect to the way its institutions are working and continue to press the issue of human rights.

We have gone into a circumstance where it's kind of up and down, hills and valleys, on whether we're engaged in human rights questions with respect to China in our normal discussions or

whether we kind of give human rights the backseat treatment. There ought not be a case where our relationship with China does not always press the issue of human rights. That should be our requirement.

That is our responsibility, in my judgment. If you are going to be a player in this world on the world stage, and China certainly is, then we believe there are certain responsibilities that attach to that position. That is the purpose of this Commission, as I indicated earlier, to keep the records and the stories of those unfortunate people who are now in prison in China as political prisoners, and to also address a range of other issues.

I wanted to just conclude today by saying that all of you have extensive experience, and I appreciate very much your willingness to contribute your thoughts and your experience to the Commission's efforts to understand and evaluate this relationship and where it's been and where it's heading. Your sense is very important.

Dr. Wan, you perhaps bring more to this table in terms of your personal safety and your own future than the other three. The other three witnesses do their work in safety. If you attempt to go back to China, I assume you have to worry about your personal safety, so we thank you very much for your courage and your willingness to speak out today.

We thank all of you very much for traveling here today to Washington, DC and being a part of this hearing.

This hearing is adjourned.

[The prepared statement of Representative Levin appears in the appendix.]

[Whereupon, at 11:59 a.m., the hearing was adjourned.]

A P P E N D I X

PREPARED STATEMENTS

PREPARED STATEMENT OF JEROME A. COHEN

AUGUST 3, 2010

Chairman Dorgan and Co-Chairman Levin:

I am grateful for the opportunity to participate in this Hearing as well as for the Commission's invaluable contributions to American understanding of China.

Today's topic—"Political Prisoners in China: Trends and Implications for U.S. Policy"—is as broad as it is important. Because introductory statements are necessarily brief, I will only emphasize several significant points and am confident that my distinguished colleagues will provide more comprehensive coverage.

WHAT IS "POLITICAL?"

The Chinese government generally denies that any of its criminal prosecutions are "political." People are supposedly convicted for violating specific provisions of the Criminal Law, not for their political conduct. Yet some provisions of the Law are so vague and all-encompassing that it is a simple matter to charge democratic activists and a huge range of peaceful protesters with their violation, especially since the courts are under Communist Party control.

For example, for trying to exercise the freedoms set forth in China's Constitution, many people have been convicted of "endangering state security." We know names such as Liu Xiaobo and Hu Jia, but the non-transparency of China prevents an accurate accounting. The statistics we do have, however, indicate a troubling trend.

Many people who initially had no interest in political reform became "political" offenders when the government suppressed their efforts to protest property deprivations, labor abuses or religious restrictions. Even lawyers who were not originally "political" have been sent to prison for too effectively representing protesters, activists and other controversial clients.

But "political" can also embrace many other types of cases. I am sure that the American petroleum geologist Xue Feng, who last month was sentenced to eight years in prison for "gathering intelligence" and "unlawfully sending abroad state secrets," thought he was engaging in commercial activity when he helped his employer, a leading U.S. oil consulting company, purchase a database regarding oil resources. Yet his case became "political" because of its inevitable impact on Sino-American relations and international business.

To take a very different situation, China's leadership politics was reportedly involved in the recent prosecutions of organized crime figures and officials who allegedly corrupted the city of Chongqing.

There are multiple reasons why the Chinese call their system for administering justice a "political-legal" system.

POLITICAL TRIALS ARE MARRED BY EVEN MORE UNFAIRNESS THAN NON-POLITICAL ONES

Despite the dedicated law reform efforts of many Chinese officials, judges, lawyers and scholars, criminal justice is still the weakest link in the country's burgeoning legal system. Gradually, some improvements in the Criminal Procedure Law and Criminal Law continue to be made, even in China's current very conservative political climate. But in non-political cases as well as political ones, law enforcement agencies frequently violate their country's laws or interpret them in ways that defeat legislative purposes.

Justice in non-political cases is often marred by arbitrary arrest, illegal search, extended incommunicado detention, torture and coerced confession, barriers against defense lawyers who seek to meet their detained clients, gather evidence and learn the prosecution's case, and failure to require prosecution witnesses to come to court or to allow defense witnesses to appear. There are also the distorting effects of widespread corruption and protean "guanxi," the networks of personal relationships that are a dominant feature of Chinese life.

Political trials feature the same abuses plus additional ones. Often they are closed to all but defense counsel, and even when "open" they are restricted to selected auditors. Lawyers who wage a vigorous defense at trial risk sanctions against themselves, including disbarment and prosecution. Court leaders rather than trial judges usually make "sensitive" decisions, and the local Party political-committee generally controls the entire process.

WHO ARE "PRISONERS?"

Punishment of political offenders is not confined to criminal cases. Political offenders are often severely punished outside the formal criminal justice system. Police do not need to ask any prosecutor or judge for approval before they sentence someone to up to three years of "reeducation through labor" or subject them to similar supposedly "non-criminal" sanctions.

Persistent critics and petitioners with legitimate grievances regularly suffer even less formal but harsh punishments. Some are committed to mental hospitals, many more to notorious "black jails." Moreover, many rights activists who nominally are "free" actually have their freedoms denied by low-visibility police harassment and surveillance that continue without end. Some civil liberties lawyers avoid prison but lose their right to practice law.

Political offenders who have served their prison sentence suffer further constraints after release if they have also been sentenced to "deprivation of political rights" for a period. Yet even after that deprivation has expired, they continue to be restricted, often confined to their home, without any legal authority or time limit, as is the case with unfrocked Shanghai lawyer Zheng Enchong. In effect they are "prisoners" for life. I hope this will not be the fate of the blind "barefoot lawyer" Chen Guangcheng when his sentence of four years and three months is completed in September. And at least one famous lawyer, Gao Zhisheng, after disbarment, torture and a prison term, has mysteriously been "disappeared" by the authorities, perhaps forever.

The many Chinese democratic activists who live outside their country and are not allowed to return are also "prisoners" in a different way because they are excluded from their own society.

So the definition of "political prisoners" is broad and complicated.

FOREIGNERS ARE NOT IMMUNE TO THIS UNFAIR SYSTEM, ESPECIALLY IN "POLITICAL" CASES

In announcing this Hearing, the Commission recognized the impact that criminal injustice can have on international commercial cooperation with China. Foreign business personnel as well as other foreigners are subject to the same inadequacies in China's criminal justice legislation as the Chinese people and to many of the same abuses that occur in implementing the laws, especially if their case becomes "political" for one reason or other.

Although Americans and many other foreigners have some additional protections under bilateral and multilateral consular agreements that their governments have concluded with China, those agreements are themselves imperfect and are sometimes ignored in practice by the Chinese government.

That is the significance of the now highly-politicized case of American citizen Xue Feng, which is currently on appeal. It illustrates not only some of the problems experienced by Chinese criminal defendants but also the operation of the U.S.-China Consular Convention that is supposed to alleviate some of those problems when Americans run afoul of Chinese law. I attach, as Appendix 1, an "op-ed" article that I recently published on the Xue case.

SHOULD THE U.S.-CHINA CONSULAR CONVENTION BE REVISED TO BETTER PROTECT INDIVIDUALS?

The Xue case shows the need to consider amending the Convention in at least four ways that would enhance the protection of Americans who fall into the hands of China's law enforcers:

(1) Reconfirm that the host state is required to notify the sending state whenever one of the latter's nationals is placed under "any form of detention," as the Convention now puts it, by spelling out the various forms of detention that China has imposed on Americans over the thirty years of the Convention's life, so there can be no excuse for failure to notify;

(2) Reduce the maximum time allowed between detention and notification to consular officials, and between notification and the first consular visit;

(3) Clarify that consular officials and the detainee have a right to discuss any matters including the details of the detainee's case; and

(4) Confirm that consular officials have the right to attend defendant's trial even if the trial is "closed" to the public and family.

Of course, the protection of individual rights is not the only factor to be considered when contemplating revision of the Convention. Under the Convention, Chinese nationals and officials are entitled to reciprocal consular rights in the U.S., and some U.S. federal or state agencies may object to the suggested proposals for enhancing

individual rights because of their impact on the handling of criminal cases against Chinese in this country. Moreover, the Chinese government will have its own ideas about whether and how to revise the Convention.

The Xue case revealed the need to improve one aspect of U.S. consular assistance to Americans detained in China. From their first visit with Xue, he reportedly asked consular officials to make his case known to the public. Although able and conscientious, they declined to do so, because his wife wished to keep the matter confidential. Thus, for two years Xue lost the potential benefits that publicity might have brought him. In future cases, our consular officials should honor the detainee's wishes in this respect unless there is strong reason to doubt his mental stability.

One additional benefit of seeking renewed U.S. government attention to consular issues with China is that it will remind many members of the Executive Branch and the Congress, not to mention the American people, of the appalling record of both our federal and state governments in complying with the multilateral and bilateral consular commitments we have made to many countries. The long-standing, irresponsible U.S. failures to notify foreign governments of their nationals' detentions, and foreign detainees of their rights to contact their governments, even in capital cases, place us in a poor position to ask for compliance by other countries. Although the U.S. government has taken steps to rectify this stupefying contempt for international agreements and international law, the topic deserves detailed Congressional and public scrutiny. I attach as Appendix 2 to these remarks an "op-ed" article that I will publish tomorrow about the U.S.-China Consular Convention.

"POLITICAL PRISONERS" AND THE OFFICIAL U.S.-CHINA HUMAN RIGHTS DIALOGUES

It is good news that the Obama and Hu Jintao administrations have renewed the official bilateral human rights dialogue and agreed to revive the official "experts' dialogue." It is regrettable that these meetings have often been postponed and in any event proceed at a glacial pace inappropriate to the urgency of the problems. Like discussions that other Western governments have conducted with China on human rights, these discussions have been generally disappointing, at least to most outside observers. Perhaps greater transparency might give us a more favorable view, but I doubt it. I am glad that the Department of State is earnestly seeking new methods of investing these dialogues with greater significance. Heaven is wonderful, but the problem is how to get there!

I believe that both official dialogues should take place every quarter. The traditional desultory, and often interrupted, pace, has to be quickened. Moreover, joint committees should be established on various important topics, including those we discuss today, and they should operate on a continuing basis and prepare reports for advance submission to participants in the quarterly meetings. Although the Chinese side shies away from discussion of concrete cases, analysis of actual cases illuminates human rights problems more than consideration of abstract principles.

Higher level, responsible leaders should take part in these meetings, not merely to symbolize that the governments take these matters seriously but also to bring the matters to the attention, and increase the understanding, of the highest leaders and their staff, those who make decisions.

Is it too much to hope that, on the Chinese side, one quarterly meeting might involve the leader of the Central Party Political-Legal Committee, usually a member of the Politburo Standing Committee, or one of his key deputies? After all, they really run China's legal system.

Is it unreasonable to expect the participation of the President of the Supreme People's Court in another quarterly session and of the Procurator-General and the Minister of Justice in other sessions?

Of course, the United States would have to produce their counterparts, and in a meaningful way. But aren't the human rights of 1.4 billion Chinese and 300 million Americans worth a higher priority than either government has given them to date?

Thank you for the opportunity to present a few thoughts. I look forward to the statements of the other panelists and our discussion with the Commission.

SOUTH CHINA MORNING POST WEDNESDAY, JULY 21, 2010

A US geologist's conviction reflects deep failures in the mainland's legal system, writes **Jerome A. Cohen**

Justice denied

Whether in the United States, China or elsewhere, the struggle for fairness in the administration of criminal justice is never-ending. The challenge is especially daunting when prosecuting "state secrets" cases. China's July 5 sentencing of naturalised American citizen Xue Feng (薛峰) to eight years' imprisonment for helping his American employer purchase a commercial database on Chinese oil resources is the latest example of how not to meet that challenge.

Xue was convicted of "gathering intelligence" and "unlawfully sending abroad state secrets". Since it was first publicly revealed in November last year, the case, which has just been appealed, has unsettled not only the international business community but also Sino-US relations. During his China visit, US President Barack Obama mentioned it to President Hu Jintao (胡錦濤).

Xue, a University of Chicago PhD in geology, disappeared in Beijing on November 20, 2007. Three weeks later, after two US diplomatic notes, China's Ministry of Foreign Affairs admitted Xue was in the custody of the Ministry of State Security, an institution modelled on the Soviet KGB. It was subjecting Xue to "residential surveillance" – illegal, incommunicado detention in a secret facility.

> There was no meaningful way to clarify the line between common, commercial information and state secrets

Beijing's failure to notify the US of Xue's detention within four days violated the US-China consular agreement. It denied him his rights under the agreement to promptly meet American officials and have them arrange defence counsel. Not until the 32nd day of Xue's detention was an American official allowed to see him. This unlawful delay, not unusual in such cases, gave the Ministry of State Security exclusive, round-the-clock access to Xue for the crucial first month of investigation – every interrogator's dream.

The American consul who finally did meet him told Xue's wife that monitors had not allowed them to discuss the case and that Xue seemed "in bad shape". No wonder. In blatant violation of Chinese law, he had already been tortured. Xue managed to show subsequent consuls cigarette burns on his arm that his captors had inflicted when he refused to confess. He also said that the secret police ultimately coerced him into signing false documents.

On February 4, 2008, Xue was transferred to a Beijing State Security Bureau detention house. Yet, in violation of the Criminal Procedure Law, he was not formally arrested until April 11 that year. Although his wife retained an experienced defence lawyer the next month, the security ministry prohibited the lawyer from meeting Xue until December, after it had completed its investigation and sent the case to prosecutors. Thus, for over a year, Xue was denied access to counsel.

Throughout 2008, Xue was held in substandard, overcrowded conditions and regularly interrogated. In May 2008, when he refused to sign an investigation report, one investigator threw a glass ashtray at his head, injuring Xue when the glass shattered. Psychological torture intensified. To release the stress, Xue often openly howled until restrained.

Prosecutors were dissatisfied with the case developed by the security ministry and twice sent it back for further investigation. They took an extraordinary six months before indicting Xue and three Chinese associates in May last year.

Beijing's No 1 Intermediate Court had even more difficulty with the evidence than the prosecutors. After holding a two-day trial last July, it could not reach a decision. Because the court apparently found their evidence of guilt unpersuasive, prosecutors requested two extensions of the trial, their legal maximum, to produce supplemental evidence. The court held only a brief hearing at year's end. As winter turned to spring, it ran out of legal grounds for further delays and no longer attempted an explanation. Perhaps it was awaiting instructions from Communist Party leaders, as is common in sensitive cases.

By international standards, the trial was a farce. It was closed not only to the public and Xue's family but also to American officials, in violation of both the consular agreement and Chinese law. The defence was not allowed to summon witnesses. Prosecution witnesses' pre-trial statements were simply read out in court. There was no opportunity to cross-examine secret police about Xue's claims of torture and coercion. Nor could defence counsel question representatives of the State Secrets Bureau about its vague definitions of "secrets" or "intelligence", and why the oil database that Xue had obtained for his company had not been declared protected information prior to his detention. And there was no meaningful way to clarify the line between common, commercial information and state secrets.

When the court finally rendered its decision – one year after trial began – its lengthy opinion cast little light on these issues. Most interesting was what the opinion did not discuss. It did not explain why the charges against Xue – who has never been charged with spying for the US government but only facilitated his company's purchase of industry data – were not reduced to illegally obtaining commercial secrets. That would have been consistent with the treatment of Australia's Stern Hu in the similar but much more publicised Rio Tinto case decided several months ago.

Nor did the opinion explain why IHS Energy, the oil information company that employed Xue at the time of the alleged offence, was not prosecuted, even though it had purchased the database, and reportedly continues to offer the data as part of its commercial information services. Like Rio Tinto, IHS emerged unscathed.

Will Xue Feng's appeal be successful? Such appeals rarely are. But, in addition to other serious issues raised, a recently promulgated guideline calling for the exclusion of illegally obtained criminal evidence offers the appellate court an opportunity to reverse the conviction. Will the Communist Party allow an independent review of the case? Otherwise, it may be a long time before Xue can rejoin his long-suffering family, and this festering wound to international business and Sino-American relations can heal.

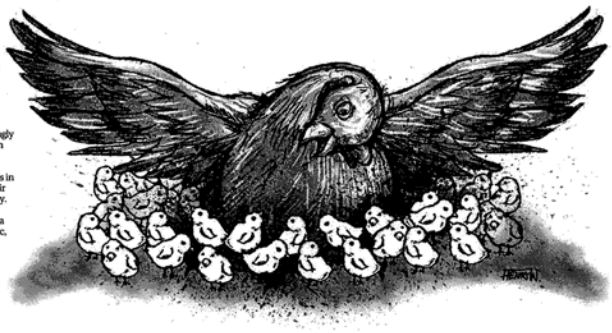
Jerome A. Cohen is co-director of NYU School of Law's US-Asia Law Institute and adjunct senior fellow for Asia at the Council on Foreign Relations. He serves without compensation as an adviser to Xue Feng's wife. See also www.usasialaw.org

APPENDIX 2

SOUTH CHINA MORNING POST WEDNESDAY, AUGUST 4, 2010

The Sino-US consular convention needs reviewing, to better protect individuals, writes **Jerome A. Cohen**. So what's preventing it?

Safe and sound



Next month will mark the 30th anniversary of the signing of the US-China Consular Convention. Three decades of increasingly close Sino-American relations have demonstrated the value of this agreement to both countries in protecting the rights and interests of their nationals when visiting the other country. Although seldom thought of until a problem arises, these protections make a major contribution to bilateral economic, commercial, educational, cultural and sports co-operation by enhancing the personal security of participants.

It is time for China and the US to review their experience with the convention. Presumably both governments have adequate files. Yet my own occasional exposure to consular disputes, as uncompensated adviser to families of Americans detained in China, suggests that, whether at the US embassy in Beijing or the State Department, relevant American officials, who frequently change jobs, could benefit from greater familiarity with "bureaucratic memory". Certainly, thorough analysis of both this historical record and the experience of other countries with Chinese consular agreements should precede any bilateral renegotiation of provisions that have proved troublesome.

US nationals should want their government to clarify and strengthen those protections enshrined in Article 35 of the convention, which guarantee each government the rights to communicate with and meet its nationals in the other country. Four important issues, related to criminal justice, need to be considered.

The first concerns the circumstances in which the host government must notify the other government that it has taken one of the latter's nationals into custody. The convention plainly provides that this must be done whenever a national has been "arrested or placed under any form of detention".

Nevertheless, in cases allegedly involving "state secrets", China's Ministry of State Security has sometimes failed to give timely notice that it is holding an American in "supervised residence", a compulsory measure that can subject a suspect to six months of incommunicado detention in a special ministry facility rather than an ordinary jail. Occasionally, Chinese officials lamely claim that they did not realise the convention requires a detention notice for "supervised residence". The convention should be revised to erase any doubts.

Wherever foreign criminal suspects are confined in China, often only a consular visit can interrupt the inevitably coercive interrogation and the torture that sometimes accompanies it. This makes the timing of the detention notice and consular visit a second critical issue. In the convoluted language of the convention, a consul's right to visit, at the latest, "shall not be refused after two days from the date notification has been sent". Absent unusual communication problems, the convention allows the host four days to send the notification.

This means that a suspect can be held as long as six days before a consul can meet him and assist him to obtain a lawyer and interpreter, and even this generous limit is frequently violated. Yet, until a consul arrives, the suspect is alone with his interrogators while they seek to extract a quick confession. In order to shorten this dangerous period, it would be desirable to reduce the time limit for notification to 48 hours and to require consular access immediately thereafter.

A third significant issue is what can be discussed during consular visits, which can occur at monthly intervals. The convention merely mentions a right to "converse". China interprets the term narrowly. With no apparent justification, it usually prohibits any discussion of the case itself and enforces this prohibition through police who monitor each visit. This drastically diminishes the value of such visits and should be changed.

> The US may have other concerns that militate against renegotiation of the convention, even if China should be willing

The final important issue – one that plagued not only the US in the trial of American petroleum geologist Xue Feng (薛峰) but also Australia in the recent Stern Hu case – is whether there is a consular right to attend trials that China closes to the public. Like its Australian counterpart, the US-China convention grants consular access to all trials involving nationals of the sending state. It mentions no exceptions. China's domestic law explicitly confirms consular access in closed trials, including state secrets trials, whenever a consular agreement calls for trial access generally.

In some state secrets trials of Americans, Chinese courts have permitted consular attendance. In recent years, however, without reasoned explanation, China has excluded US consuls from such cases. If the interests of Americans detained in China are uppermost in the minds of US officials, they should protest at such exclusions and try to persuade China to reconfirm the existing obligation to allow consular access to all trials.

Yet the US may have other concerns that militate against renegotiation of the convention, even if China should be willing. In accordance with the principle of reciprocity, the US would have to grant China the same improved access to Chinese nationals in the US as the US would gain in China. At a time of rising concern about Chinese spying specifically and national security generally, American law enforcement agencies may be reluctant to provide quicker notice of detention, especially since the US, unlike China, has a federal system that complicates compliance. They may also not want to guarantee Chinese consuls free discussion with sensitive detainees or the opportunity to attend any American closed trials. The two governments' law enforcement agencies may have similar views.

Another mutual disincentive to renegotiation is the fact that expansion of Sino-American consular rights would offer other governments, including Taiwan's, an incentive to attempt to improve their existing consular-type arrangements with both China and the US.

In view of its long-standing, scandalous disregard of its obligations to many third countries under the Vienna Convention on Consular Relations, the US may not want to raise the subject of consular protections with any country. That would be unfortunate, however, for the rights of Chinese, Americans and many others.

Professor Jerome A. Cohen is co-director of NYU School of Law's US-Asia Law Institute and adjunct senior fellow for Asia at the Council on Foreign Relations. See also www.usasialaw.org

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PREPARED STATEMENT OF JOSHUA ROSENZWEIG

AUGUST 3, 2010

Mr Chairman, I am privileged to be invited to participate in this hearing and I would like to thank you, your fellow commissioners, and the CECC staff for inviting me. Today I represent The Dui Hua Foundation, which has been engaged for more than a decade in an effort to uncover the names of individuals imprisoned in China for the non-violent expression of their political and religious beliefs. Our database of prisoner information includes the names of roughly 22,000 persons imprisoned for these reasons since 1980, of which more than 5,800 form an "active registry" from which we develop prisoner lists designed to raise individual cases directly to the Chinese government and encourage better treatment and early release.

Recent decades have seen China emerge as a global power, fueled by strong economic growth, its importance as a trading partner, and its key diplomatic role with regard to trouble-spots such as North Korea, Sudan, or Iran. During this period, many Chinese have enjoyed substantial improvements in living standards. To many developing countries, China serves as a model for the delivery of basic education and health care. Though not without caveats—for instance, the ballooning gap between rich and poor—China's substantial progress in these areas cannot be denied. However, progress in the area of civil and political rights has unfortunately not kept up with economic and social development.

Over the past 2½ years in particular, roughly since the beginning of 2008, there has been a palpable sense that earlier progress towards rule of law in China has stalled, or even suffered a reversal, and there is mounting evidence that a crackdown is underway, one particularly targeting members of ethnic minorities, government critics, and rights defenders.

One manifestation of this can be seen in the recent sharp increase in criminal proceedings for "endangering state security" (ESS) a category of crime that includes vaguely defined and arbitrarily applied offenses such as "splittism," "inciting subversion of state political power," and "trafficking in state secrets for overseas entities." ESS arrests more than doubled in 2008 compared to the previous year, and more arrests and indictments for ESS were carried out in China in 2008 and 2009 than in the entire five-year period from 2003 to 2007.[1] In China, arrest almost inevitably leads to trial and trial to conviction. The most recent official statistics suggest that as many as 1,500 Chinese were convicted on state security charges in 2009—more than 3½ times the number convicted for ESS in 2004.[2] (Data for the period from 1998 to 2009 are included in the appendix to this statement.)

Moreover, China's Supreme People's Court reports that these individuals are being punished more harshly, with a 20 percent increase in sentences of at least five years' imprisonment in 2009.[3] One of these harsh punishments was handed down to Liu Xiaobo, whose 11-year sentence for penning a few essays critical of the government and helping to draft the "Charter 08" political manifesto is the longest sentence known to have ever been handed down in China for the crime of "inciting subversion."[4] And statistics suggest that a majority of those punished on state security charges are members of the Tibetan and Uyghur ethnicities, many of whom were detained for engaging in non-violent protests against government policies.[5]

But we mustn't limit our concern to formal criminal proceedings on state security charges, because there are other kinds of political imprisonment in China. Charges of "illegal business activity" are used against the publishers of politically themed books or distributors of Bibles.[6] Muckraking journalists and environmental activists are charged with "extortion" or "fraud," and bloggers who criticize corruption or wrongdoing by local officials can find themselves imprisoned for "defamation."[7] Countless practitioners of Falun Gong or members of unauthorized Christian sects are locked away for "using a cult to undermine implementation of the law" and subjected to specialized regimes of discipline and re-programming.[8] And I have not even yet mentioned the system of administrative incarceration known as "re-education through labor," in which so-called "minor offenses" can be punished for up to three years without proper trial and without legal counsel—a system whose survival despite violating Chinese law testifies to its expedient value to the preservation of stability.[9]

The targets of political repression can expect no constitutional or legal guarantee that their rights will be protected during the proceedings against them. The geologist Xue Feng, an American citizen, was held incommunicado and subjected to physical and psychological abuse as police failed to honor their obligations under China's consular agreement with the United States, and he languished in detention for more than two years while procedural deadlines were repeatedly ignored.[10] Defense lawyers face obstacles in their attempts to fulfill basic duties, such as meeting with detained clients and getting access to prosecution evidence, and their eloquent, reasoned defense statements fall on deaf ears in the courtroom while decisions against their clients are made by external, Party-dominated "adjudication committees," sometimes before a trial has even begun.[11]

Once imprisoned, these individuals are seldom offered any clemency, victims of a penal system that equates good behavior with acknowledgment of wrongdoing and requires that sentence reduction and parole for those convicted of endangering state security be "strictly handled."[12] Compared with a decade ago, fewer of the individuals whose cases are raised with the Chinese authorities by Dui Hua or through the bilateral human rights dialogues are seeing any changes to their sentences—a situation that is especially true for Tibetans and Uyghurs. This extends to medical parole, even for gravely ill individuals like Hu Jia, who suffers from serious liver disease, or Li Wangyang, an activist who has spent nearly all of the past 21 years

in prison, much of that time hospitalized because of poor health. On the rare occasion when medical parole is granted to political prisoners, it tends to be as in the case of Zhang Jianhong, whose health under the burden of neuromuscular disease deteriorated to the point where he was unable to breathe without the assistance of a machine.[13]

Perhaps the most outrageous—and telling—example of China's worsening human rights environment has been the government's failure to provide a credible accounting of the whereabouts of Gao Zhisheng, the outspoken rights lawyer whose repeated criticism of government policies and defense of Falun Gong practitioners and political activists ultimately landed him a 2006 conviction on charges of inciting subversion by a Beijing court. Given a suspended sentence, Gao and his family were subjected to intense police surveillance, interrupted by a period of detention in late 2007 in which his captors allegedly tortured him so severely that friends said it left him "a broken man."

In February 2009, shortly after Gao's wife and two children left China to seek asylum in the United States, Gao disappeared. We now know that for more than a year, he was secretly shuttled from location to location and kept under police custody, during which time he was subjected to physical and psychological abuse. After a sustained period of pressure by the international community, Gao mysteriously reappeared in Beijing this past April and gave two interviews: one, blessed by his captors, in which he announced to the Associated Press he was "giving up activism" and one during an unauthorized meeting with a small group of friends and diplomats in which he described in detail his ordeal over the past year.[14] Several days later, Gao disappeared once more—presumably again into the hands of security agents acting with reckless disregard for individual rights, rule of law, or the consequence of their actions on China's international image.

I believe that what we are witnessing today is a manifestation of a Chinese leadership that, though it may exude confidence in its dealings with the outside world, sees mounting signs of instability at home in the form of petitioners seeking redress for grievances, growing numbers of mass incidents, eruption of long-simmering ethnic tensions in Lhasa and Urumchi, and the messy, hard-to-control Internet, with its channels for expression of critical opinion and transmission of uncensored news. A sense of imminent and perpetual threat has played into the hands of a hard-line, "stability-above-all-else" element in the leadership, one particularly associated with the security forces, the military, and the propaganda apparatus. Though the factors underlying these developments in China have been primarily domestic, confusion in the international community about how best to engage with "rising China" on human rights has clearly emboldened some Chinese leaders to pursue certain policies despite international opposition.

For the time being, at least, China's leadership appears to be pursuing what the Chinese scholar Yu Jianrong has called "rigid stability," instead of heeding the voices of those inside and outside the Party who advocate taking stronger steps toward establishment of a more legitimate rule-of-law system, one that would weaken the authority of the security forces and see Party oversight of court decisions receding in favor of a more independent judiciary.[15] But as long as the perception remains of a high level of threat from ethnic separatists, hostile foreign forces, mass incidents, and political subversives, this hard-line faction will try to continue to hang on to its remaining strongholds long enough at least to have an influence over the formation of the new leadership group at the 18th Party Congress in 2012.

Notwithstanding the strong position of the hard-liners, proponents of expanding civil rights and further developing rule of law in China still have a voice, particularly via the media. On a few occasions, backlash against local government officials' abuse of criminal defamation charges to prosecute critics of corruption and malfeasance have forced authorities to acknowledge they overstepped their authority.[16] Major media outlets have been vocal in exposing serious problems such as the use of "black jails" to incarcerate petitioners, mysterious deaths of detainees in police-run detention facilities, and the torture of criminal suspects.[17] There have been stirring calls for reform to the laws governing state secrets and household registration, and last month new rules took effect that should in theory prevent illegally obtained evidence and testimony from being used in criminal proceedings.[18]

In short, there appears to be a constituency within the Party (not to mention among Chinese legal experts and practitioners and the wider population) that supports moving more resolutely along a path of reform, a group that may feel frustrated by the recent lack of progress on political reform and growing reliance on repression. An important goal of our collective human rights engagement with China should be to support the efforts of this constituency, particularly at such a moment when it may feel most embattled.

At this point, I would like to offer the following recommendations:

First, the bilateral human rights dialogue between the United States and China should be enhanced and expanded. To this end, we recommend:

- Doubling the frequency of the dialogue to make it a semi-annual event. This would facilitate the establishment of relationships with Chinese interlocutors and better reflect the importance the US government attaches to the human rights situation in China. A semi-annual dialogue would also match the frequency of China's human rights dialogue with the European Union.
- Ensuring that detailed, bilingual prisoner lists an integral part of the dialogue process. It is also essential that the US government hold China accountable for responding to these requests for information in a sincere and timely manner.
- Establishing a working group on the rights of political prisoners. Thanks to efforts by the State Department, China has agreed in principle to establish working groups as part of the bilateral human rights dialogue. The United States should actively follow up on this agreement and propose that a working group be established on the rights of political prisoners.

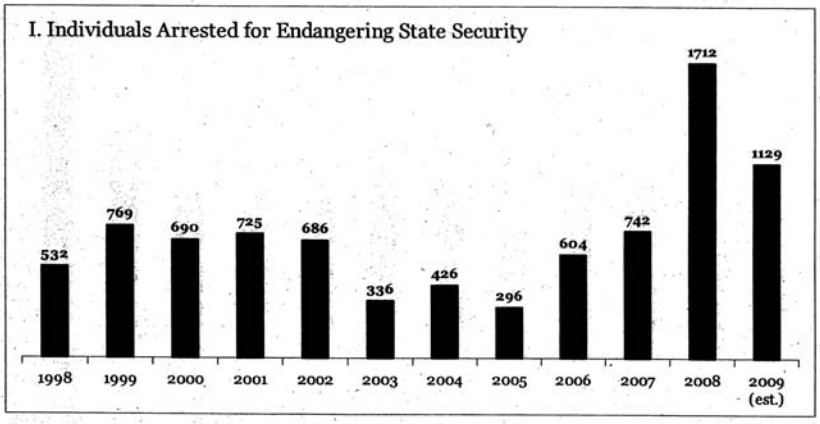
The United States must be prepared to engage China critically in the area of human rights. Disagreements can be expected, but engagement must be about more than simply "agreeing to disagree." It should involve recognizing the value of substantive, critical discussion in which all parties are held equally accountable for their commitments to human rights under international law.

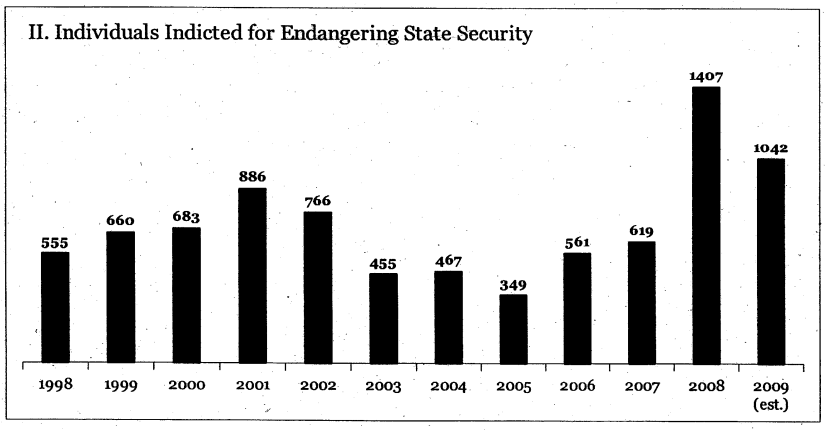
Second, we further recommend that the United States play a more active role in the human rights institutions of the United Nations, including the Human Rights Council and its process of "universal periodic review." I attended the Human Rights Council's February 2009 review of China's human rights situation and was disappointed that the United States chose not to take the opportunity to raise its concerns during that process. Without stronger leadership and commitment to upholding international human rights law by the United States, there is real reason for concern that this important multilateral institution will continue to allow countries like China to defend their problematic rights records by appealing to "unique national circumstances" and the notion that some human rights are more fundamental than others. The United States should also help to ensure that the treaty-based bodies and "expert-driven" processes of the United Nations continue to play a vigorous role in the monitoring and protection of human rights in all countries, including China.

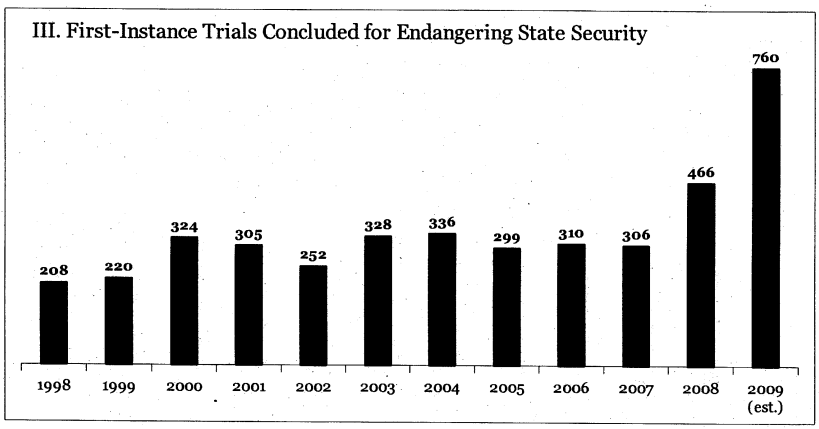
Our third recommendation concerns taking better advantage of this Commission's fine Political Prisoner Database. In a 2008 visit to Beijing, Commissioner Christopher Smith and former Commissioner Frank Wolf handed over a list of Chinese political prisoners to the former Chinese foreign minister, Li Zhaoxing. This was the first time that members of Congress had handed over a list of prisoners derived from the CECC database. This database is an invaluable resource, expertly developed and maintained by Commission staff members, and we are proud to contribute information from our own database to this project on an ongoing basis. We would like to recommend that the Com-mission encourage members of Congress to make more frequent use of relatively short, focused lists as a routine part of their interactions with Chinese officials.

In conclusion, Mr. Chairman, I'd like to take this opportunity to thank you for your leadership in this area and to pay tribute to the longstanding and close working relationship The Dui Hua Foundation has had with this commission over the past decade. I shall be happy to answer any questions you or other commissioners may have.

APPENDIX: SELECTED STATISTICS ON POLITICAL CRIME IN CHINA, 1998–2009







Source: Data for 1998–2008 come from China Law Yearbook (1999–2009). For estimates, see notes 1 and 2 below.

NOTES

[1] See The Dui Hua Foundation, "Official Data Show State Security Arrests, Prosecutions in China Exceeded1,000 in 2009," (12 March 2010): http://www.duihua.org/media/press/statements/statement—on—ESS—in—2009.htm.

[2] The Dui Hua Foundation, "Supreme People's Court 'Work Report' Indicates More Trials, Heavier Sentences for Endangering State Security in 2009" (20 July 2010):http://www.duihuahrjournal.org/2010/07/supreme-peoples-court-work-report.html.

[3] Ibid.

[4] Verna Yu, "Liu's Sentence a Grim Warning to Dissidents," South China Morning Post (27 December 2009): A1.

[5] According to statistics collected from the Xinjiang Yearbook, ESS trials in the Xinjiang Uyghur Autonomous Region typically accounted for between one-half to two-thirds of the national total during the early 2000s. See The Dui Hua Foundation, Statistics on Political Crime in the People's Republic of China: Volume 3, Occasional Publications of The Dui Hua Foundation 23 (December 2006): 23–24. Provincial data and anecdotal evidence suggest that allegations of espionage may contribute another large portion of China's state security cases, especially in predominantly Han areas. See The Dui Hua Foundation, Reference Materials on China's Criminal Justice System 5 (June 2010): iii, 13–17.

[6] See, for example, documents related to the case of Yang Maodong (Guo Feixiong), in The Dui Hua Foundation, Selected Decisions From Chinese People's Courts, Occasional Publications of The Dui Hua Foundation 26 (June 2008) or the case of Shi Weihan, in ChinaAid, "Christian Shi Weihan Sentenced to Three Years in Prison for Printing and Giving Away Bibles" (11 June 2009):http://www.chinaaid.org/qry/page.taf?id=105&—function=detail&sbtblct—uid1=1212&—nc=28225309e65c49b23121c31f64d3a39e.

[7] See, for example, the case of Qi Chonghuai, in Committee to Protect Journalists, "Chinese Journalist Sentenced to Four Years" (13 May 2008): http://cpj.org/2008/05/chinese-journalist-sentenced-to-four-years.php; the case of Wu Lihong, in The Dui Hua Foundation, Selection of Cases from the Criminal Law, Occasional Publications of The Dui Hua Foundation 27 (September 2008): 16–18; and the case of Fan Yanqiong et al., in Chinese Human Rights Defenders, "Three Fujian Digital Activists Convicted as Thousands Gather in Landmark Protest" (16 April 2010): http://chrdnet.org/2010/04/16/three-fujian-digital-activists-convicted-as-thousands-gather-in-landmark-protest/.

[8] See The Dui Hua Foundation (trans.), "Notice Regarding Printing and Distribution of 'Implementation Measures for Assessment of Education and Conversion of "Falun Gong" Prisoners,'" Reference Materials on China's Criminal Justice System 5 (June 2010): 44–48.

[9] See The Dui Hua Foundation, "Professors Yu Jianrong and Jiang Ming'an Spar Over Future of Re-Education Through Labor" (9 July 2010): http://www.duihuahrjournal.org/2010/07/professors-yu-jianrong-and-jiang-mingan.html.

[10] Charles Hutzler, "Chinese Court Sentences US Geologist to 8 Years," Associated Press (5 July 2010); Jerome A. Cohen, "Justice Denied," South China Morning Post (21 July 2010).

[11] See The Dui Hua Foundation, "A Day in the Life of a Chinese Defense Lawyer" (9 July 2010):http://www.duihuahrjournal.org/2010/07/day-in-life-of-chinese-defense-lawyer.html; Maggie Chen, "Freedom of Speech Defence Bound to Fail," South China Morning Post (7 June 2010): A6; and The Dui Hua Foundation, "Only in China: 'Adjudication Committees' Serve Judicial System," Dialogue 39 (Spring 2010): 6–7.

[12] See The Dui Hua Foundation, "Chan Yu-lam Sentence Reduction Sheds Light on How Prisoners Are Rewarded for Good Behavior" (8 August 2009): http://www.duihuahrjournal.org/2009/08/chan-yu-lam-sentence-reduction-sheds.html

[13] See The Dui Hua Foundation, "Systemic Sickness: Diagnosing the Ills of Medical Parole in China," Dialogue 39 (Spring 2010): 1–3.

[14] Charles Hutzler & Isolda Morillo, "Crusading Chinese Lawyer Gives Up Activism," Associated Press (7 April 2010); Paul Mooney, "Beijing's Mafia Justice for Lawyer They Won't Lock Up but Can't Set Free," South China Morning Post (13 June 2010): A12.

[15] See China Digital Times, "Yu Jianrong: Maintaining a Baseline of Social Stability" (6 March 2010):http://chinadigitaltimes.net/2010/03/yu-jianrong-maintaining-a-baseline-of-social-stability-part-i/ (first of a multi-part series of translations).

[16] See Joshua Rosenzweig, "China's Battle Over the Right to Criticize," Far Eastern Economic Review (May 2009): 12–15.

[17] Andrew Jacobs, "A Rare Chinese Look at Secret Detentions," New York Times (27 November 2009): A10; Human Rights Watch, "An Alleyway in Hell": China's Abusive Black Jails (12 November 2009); The Dui Hua Foundation, "Zhejiang Daily Compiles Morose Compendium of 'Unnatural Deaths' in Detention" (25 June 2010): http://www.duihuahrjournal.org/2010/06/zhejiang-daily-compiles-morose.html; The Dui Hua Foundation, "Zhao Zuohai Case Provokes Responses on Legal Protections from Chinese Public, Government" (2 June 2010): http://www.duihuahrjournal.org/2010/06/zhao-zuohai-case-provokes-responses-on.html.

[18] These rules have been translated by The Dui Hua Foundation: http://www.duihua.hk/hrjournal/evidence/evidence.htm

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PREPARED STATEMENT OF WAN YANHAI

AUGUST 3, 2010

Senator Byron Dorgan, Commissioners:

I am Wan Yanhai, director of Beijing Aizhixing Institute. I have been working on HIV/AIDS prevention and care for 20 years, since 1990. Our organization, Beijing

Aizhixing Institute, or Beijing Aizhi Action Project, has been working on HIV/AIDS, human rights, and civil society development for 16 years—since 1994.

In the summer of 1994, I had a meaningful conversation with a psychiatrist in Beijing that influenced my philosophy about serving the people. When mentioning being monitored by security agencies in China, I said that I didn't care and I could still manage my work from jail. The senior doctor said that if I am sacrificed, nobody benefits; and if I am sacrificed, I will not be able to work. It is a loss. To continue to carry out my work that is helpful to others, I need to protect myself.

This philosophy has guided my approach to dealing with security agencies in China. Through great effort and careful attention, I have managed to keep working in China for the past 16 years.

In the past 16 years, I was briefly detained from August 24 to September 20 in 2002; November 25 to 28 in 2006; and December 27 to 28 in 2007. I left China because of security concerns in January 1997, October 2002 and May of this year. But most of the time, I have been able to continue my work in China.

Why am I sitting here, and not in prison? I have to say that I benefited from the following factors:

1. HIV/AIDS is a public health concern, which the Chinese government also cares about.
2. I used to work at the government health education institute, where I became known to the public and established good working relationships or friendships with individuals in government.
3. Government officials who were friendly helped.
4. International media coverage also offered some support and protection.

But I also carefully managed my own activities and took a sensitive approach in the language I used surrounding my work. I don't know whether these are reasons for my success or failure. But, I'd like to share these with you.

1. Be transparent, don't hide.
2. Comport yourself as if you are being monitored all of the time and be sensitive to all potential risks.
3. Use a professional approach and appropriate language.
4. Avoid personally offending police and keep good communication with them.
5. When arguing with police, do so with regards to their logic, not the basis of their order.
6. Be aware of friends and allies inside the government, and everywhere.
7. Be critical not only of China but also of the United States and other countries.

When I was detained by the Beijing State Security Bureau for releasing a classified document, from August 24 to September 20 of 2002, and detained by the Beijing Public Security Bureau in November of 2006, the investigations were similar, focused on our funding sources, relationships with human rights groups and media, and information provided for foreigners. In 2006, the focus of investigation was on my relationships with overseas foundations and human rights activists inside China. As a nongovernmental organization (NGO) receiving foreign donations, I was very careful when answering questions. I insisted that I was serving the Chinese people and China, and we happened to receive foreign donations. And we also applied for Chinese government funding, although not much funding has been provided for us.

While in detention, I was careful in my use of language and tone, and tried not to offend police. Sometimes we chatted. When they asked questions, I seriously thought about my response and then answered. I told police officers that I was serving the people—if my work became too difficult and dangerous, I could give up. I cooperated with a bottom line that I should not harm a third party.

In talks over tea and meetings in my office with security agents, I was more open and frank, and questioned security departments or government policy in general.

As a leader of an organization, we managed the organization in a transparent and professional way and based on the law. We anticipated that the Chinese government will come to investigate any day.

Our work, however, has been severely damaged by government threats. Our conference on compensation for those infected with HIV/AIDS through blood transfusions was cancelled in November 2006. Many other events were also cancelled. Time was wasted. We psychologically felt bad. We stopped working a month before the Beijing Olympics for two months. We stopped working a month before the People's Republic of China's (PRC) 60-year celebration. We had to politically sensor ourselves, which might damage our solidarity with other organizations and people.

I left China via Hong Kong on May 6 of this year after being harassed by multiple government agencies. In the first six months of 2010, our organization received pres-

sure and harassment from about 10 agencies, including public security, state security, the tax department, the department of industry and commerce where we were registered, propaganda department, the fire department, etc.

Senators, human rights advocacy and civil society groups are developing rapidly in China. But human rights defenders and civil society groups are under severe surveillance and recently under attack by the Chinese government. How can the US government make a difference?

1. US AID programs can make a difference, but currently I don't know whether the United States has a clear strategy to support civil society groups and human rights defenders. Should the United States have an evaluation of its current aid programs in China from a human rights perspective?

2. Information and Internet freedom is crucial in empowering people and protecting people. But if people are not well organized, information itself can't work. The United States should strengthen its work of supporting people in their efforts to organize in ways that are based on democratic rules and principles.

3. The United States should guarantee that US-based businesses will not be used to persecute human rights defenders and civil society organizations. Companies involved in information censorship and that provide privacy information to the Chinese government should be punished in a democratic world.

PREPARED STATEMENT OF SOPHIE RICHARDSON

AUGUST 3, 2010

Human Rights Watch has written extensively over the past several years about the Chinese government's persecution of scholars, activists, lawyers, and others as a means of crushing dissent. We and others have raised many well-known cases—Liu Xiaobo, Gao Zhisheng, Chen Guangcheng, Rebiya Kadeer, the Panchen Lama, Huang Qi, and Tan Zuoren—and the many problems therein, ranging from baseless charges that clearly violate the Chinese Constitution to torture in custody and denial of access to lawyers and family members.

Human Rights Watch continues to believe, as we have since December 2008, when Liu Xiaobo was arrested, that the government's actions toward him reflected an overall political hardening in China. The failure of the international community and the US government to respond forcefully then contributed to the most severe sentence passed since the introduction of the crime of "inciting subversion" in the PRC criminal code in 1997. Nor is there any doubt that Secretary of State Clinton's statement just two months after the sentencing, that human rights should not "interfere" with other aspects of the US-China relationship, was profoundly unhelpful. The string of harsh convictions against dissenters that followed Liu's sentence should not come as a surprise.

Today Human Rights Watch wishes to highlight two individuals whose cases have gotten less attention but whose treatment we believe represents an alarming development: the extraordinarily harsh sentences given recently to those who are not dissenters or critics, but who in many ways embody the characteristics the government says it desires.

Karma Samdrup is one of the largest private collectors of Tibetan antiques in China. He financed an environmental protection organization, the Qinghai Three River Environmental Protection group, after the Chinese government began a massive effort to protect the environment of the Qinghai-Tibetan plateau. Over the years, the group has won several awards for its work, and he was praised in the state-run press. However, Karma Samdrup was arrested in Chengdu, Sichuan Province, in January 2010 on charges of robbing graves dating back to 1998. In late June 2010, Samdrup received a 15 year sentence.

Karma Samdrup's relatives and friends believe that the revival of the decade-old charges stems from his efforts to gain the release of his two brothers, who were arrested in August 2009, after the local environmental protection group they had created had tried to bring attention to various alleged environmental abuses by local officials, including the hunting of protected species. His two brothers are also in jail, one serving a 21-month reeducation through labor sentence, and the other a five-year prison sentence, both for alleged state security offenses. This is one of the most extreme cases of arbitrary persecution that Human Rights Watch has witnessed in decades.

Gheyret Niyaz is a Uighur journalist and the editor of a popular website called Uighurbiz. He was detained in October 2009 on charges of "endangering state security," and on July 23, 2010, received a 15 year prison sentence. His "crime" appears

to have been giving an interview to the foreign media after the July 2009 ethnic violence in Xinjiang, although in those discussions Niyaz cited economic inequality and the role of outside instigators in the unrest.

Although over the years Human Rights Watch has observed seemingly random persecution of individuals who appeared to pose no overt threat to the Chinese government, the charges and lengthy sentences against Samdrup and Niyaz should ring alarms.

These two cases suggest to us another twist in the nature of political imprisonment: that one can embody the qualities the government proclaims it wants—apolitical, entrepreneurial, involved only in "soft," state-approved causes—and still find oneself arbitrarily deemed a threat to state security. Put more simply, if these people are considered threats to the state, who does not fall into that category? How are people to avoid such charges—should they not be in business? Should they not support government-sanctioned causes, or turn down prizes from the government?

We must also not forget the untold number of political prisoners whose names we do not know—those arbitrarily detained in the wake of the March 2008 protests across the Tibetan plateau and those similarly held in "black jails," secret and illegal detention facilities used to remove petitioners and other "undesirables" from city streets. We must make a particular effort not to forget those in Xinjiang who are the victims of enforced disappearances following the ethnic violence in that region in July 2009 and demand account for them. And we must not forget individuals such as Liu Xiaobo, who committed the audacious "crime" of asking the Chinese government to uphold its own Constitution and laws, or Chen Guangcheng, who tried to make the government's own legal systems function.

All of these cases lead Human Rights Watch to the conclusion that political imprisonment in China has reached new lows of arbitrariness, and therefore no behavior is safe—your business success today might be a liability tomorrow; your call to end unrest last year might land you in hot water today; your approval from the government at any point is no guarantee of a life free of persecution.

The United States should remain profoundly concerned about the Chinese government's persecution—until peaceful dissent is tolerated, the country cannot be expected to be predictably transparent or stable. But in its vast relationship with China, the ever-more arbitrary nature of political imprisonment should serve as a reminder that many of the United States' other goals and interests—the rule of law, a predictable trade regime, the development of civil society—are at risk so long as those in China who share those views are considered potential threats by their government.

We offer the following recommendations as ways of ameliorating these problems:

First, Secretary Clinton should make a strong, explicit statement that the United States is concerned by the noticeably worsening human rights environment in China.

Second, the United States government and its officials should unambiguously reject the Chinese government's attempt to force the United States to keep silent on Tibet and Xinjiang on the basis of the Joint Declaration's recognition of China's "core interests."

Third, all senior Obama administration officials should commit to raising at least one individual case in each meeting with their Chinese counterparts, particularly given the administration's claims to taking a "whole of government" approach to the promotion of human rights in China.

And, finally, President Obama should welcome in the White House former political prisoners from China to give an unequivocal signal of support to China's fledgling civil society.

PREPARED STATEMENT OF HON. SANDER LEVIN, A U.S. REPRESENTATIVE FROM MICHIGAN; COCHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

AUGUST 3, 2010

We hold this hearing today in order to shine a spotlight on political imprisonment in China. As this Commission has documented, for the last several months, the Chinese government has engaged in an increasingly harsh crackdown on lawyers and human rights defenders. Political repression, political imprisonment, and the tightening of controls over criminal defense attorneys, human rights lawyers, and the legal profession in general has led some Chinese legal experts to conclude that the rule of law in China today is in "full retreat."

To promote the rule of law in China, it is vital that we publicize and seek the release of political prisoners—people detained or imprisoned for peacefully exer-

cising their human rights under China's own Constitution and laws, or under China's international human rights obligations. These rights include peaceful assembly, freedom of religion, freedom of association, and freedom of expression—including the freedom to advocate for peaceful social or political change, and to criticize government policy or government officials.

China's political prisoners include some of the country's most capable and socially committed citizens—scholar and writer Liu Xiaobo, labor and democracy advocate Hu Mingjun, HIV/AIDS advocate Hu Jia, attorney Gao Zhisheng, journalist Gheyret Niyaz, environmentalist Karma Samdrub, and thousands of others. Lawyers, labor advocates, religious adherents, advocates for ethnic minority rights, writers, scholars, civil society leaders, and businesspeople are in prison for exposing corruption, poor working conditions and environmental problems, for posting online commentary critical of the government or Communist Party, and for trying to organize without advocating violence. They must be released. If the Chinese government would engage these public-minded citizens instead of making them the targets of brutal repression, then it would unleash constructive forces in Chinese society that are poised to address the very social problems with which the government and Party now find themselves overburdened, including rampant corruption, occupational safety and health, environmental degradation, and police abuse.

Last month, this Commission completed an enhancement of its online Political Prisoner Database. The Commission's database provides a unique and powerful resource for governments, NGOs, educational institutions, and individuals who research political and religious imprisonment in China, or who advocate on behalf of political prisoners. The enhancement roughly doubled the types of information available to the public, enabling individuals, organizations, and governments better to report on political imprisonment in China and to more effectively advocate on behalf of Chinese political prisoners—and people around the world have been doing just that. The number of "hits" to the database from individual users, NGOs, academic institutions and governments around the world has increased dramatically.

Stability in China is in the national interest of the United States. The Chinese government's full and firm commitment to openness, transparency, the rule of law, and the protection of human rights, including worker rights and civil and political rights, marks a stability-preserving path forward for China. Anything less than the Chinese government's full and firm commitment to protect and enforce these rights undermines stability in China.

The United States and China's engagement on trade and other matters has never been as extensive as it is today. The potential of this engagement in the future to bring prosperity and stability depends on China's applying its laws equally and fairly, in accordance with international human rights norms. That will require an end to political imprisonment. This hearing and the Commission's newly enhanced Political Prisoner Database both will play a critical role in enabling governments, NGOs, educational institutions, and the general public around the world to monitor China's progress toward that end.

Submission for the Record

Representative Cases From the CECC Upgraded Political Prisoner Database

Congressional - Executive Commission On China

8/2/2010 9:30:38 AM

Personal Details

CECC Record Number	2004-03114	**Ethnic Group**	Han?
Detention Status	DET	**Sex**	M
Issue Category	spch	**Age At Detention**	
Main Name	Liu Xiaobo	**Religion**	
Chinese Characters (Main Name)	刘晓波	**Occupation**	professor, law; PC deputy
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Beijing Shi (prov.)
		Residence Prefecture	(na)
Additional Name(s)		**Residence County**	(na)
Pinyin Name	Liu Xiaobo		

Imprisonment or Detention Details

Date of Detention	2008/12/08
Current Prison	Jinzhou Prison
Sentence Length (Years)	11
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Liaoning Province
Prefecture Where Imprisoned (or Detained)	Dalian Shi (pref.)
County Where Imprisoned (or Detained)	Jinzhou Dist.

Legal Process

Legal Process	chg/tri/sent-app	**Formal Arrest Date**	2009/06/23
Trial Court	Beijing No. 1 Intermediate People's Court	**Trial Date**	2009/12/23
Sentence Court	Beijing No. 1 Intermediate People's Court	**Sentence Date**	2009/12/25
Appeal Court		**Appeal Date**	2009/12/29
Appeal Ruling Court	Beijing High People's Court	**Appeal Ruling Date**	2010/02/11
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art105(2)		

Short Summary

On December 25, 2009, the Beijing No. 1 Intermediate People's Court sentenced prominent intellectual Liu Xiaobo to 11 years in prison for inciting subversion. The Beijing High People's Court denied his appeal on February 11, 2010. Prosecutors said Liu drafted and organized Charter 08, signed by thousands of Chinese and calling for political reform and protection of human rights. Liu was also punished for six essays he wrote that were posted on overseas Web sites. The essays were critical of Chinese Communist Party rule but did not advocate violence; one specifically called for non-violence. Liu was taken into custody on December 8, 2008, a day before Charter 08 was released. He was kept in residential surveillance under conditions that violated Chinese law and arrested on June 23, 2009. Liu was detained in 1989 after the Tiananmen protests and served three years reeducation through labor for his writings in 1996. He is serving his sentence at the Jinzhou Prison in Liaoning province.

Congressional - Executive Commission On China

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Personal Details

CECC Record Number	2008-00668	**Ethnic Group**	Han
Detention Status	DET	**Sex**	M
Issue Category	assoc/civil/dem/spch	**Age At Detention**	40
Main Name	Guo Quan	**Religion**	
Chinese Characters (Main Name)	郭泉	**Occupation**	professor (unspec.)
		Affiliation	China New Democracy Party (CNDP); China Democracy Party (CDP)
Alternate Name (Lay or Pen)		**Residence Province**	Jiangsu Province
Additional Name(s)		**Residence Prefecture**	Nanjing Shi (pref.)
Pinyin Name		**Residence County**	Nanjing Shi Muni. Urb. Area (cty.)

Imprisonment or Detention Details

Date of Detention	2008/11/13
Current Prison	Pukou Prison (Nanjing)
Sentence Length (Years)	10
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Jiangsu Province
Prefecture Where Imprisoned (or Detained)	Nanjing Shi (pref.)
County Where Imprisoned (or Detained)	Pukou Dist.

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	2008/12/19
Trial Court	Suqian Intermediate People's Court	**Trial Date**	2009/08/07
Sentence Court	Suqian Intermediate People's Court	**Sentence Date**	2009/10/16
Appeal Court	Jiangsu High People's Court	**Appeal Date**	2009/10/23
Appeal Ruling Court	Jiangsu High People's Court	**Appeal Ruling Date**	2009/12/22
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art105(1)		

Short Summary

The Suqian Intermediate People's Court in Jiangsu province on October 16, 2009, sentenced Guo Quan, formerly a university professor and a past member of one of the few "democratic" parties allowed in China, to ten years in prison for "subversion of state power," according to Human Rights in China. The court found that Guo used the Internet to organize an "illegal" political party called the "China New Democracy Party," recruited members for the party, published numerous "reactionary" articles online, called for a seven-day stay-at-home boycott of the government, and sought to "overthrow" the socialist system. Authorities detained Guo on November 13, 2008, arrested him on December 19, and held his trial on August 7, 2009. The Jiangsu High People's Court affirmed the lower court's decision on December 22, 2009, according to Boxun. Guo is serving his sentence at the Pukou Prison in Nanjing, Jiangsu.

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8/2/2010 9:31:29 AM

Personal Details

CECC Record Number	2004-05482	**Ethnic Group**	Han
Detention Status	DET	**Sex**	M
Issue Category	spch	**Age At Detention**	36
Main Name	Shi Tao	**Religion**	
Chinese Characters (Main Name)	师涛	**Occupation**	journalist, newspaper
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Shanxi Province
		Residence Prefecture	Taiyuan Shi (pref.)
Additional Name(s)	Nice Ears (pen name)	**Residence County**	(na)
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	2004/11/24
Current Prison	Deshan Prison
Sentence Length (Years)	10
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Hunan Province
Prefecture Where Imprisoned (or Detained)	Changde Shi (pref.)
County Where Imprisoned (or Detained)	Wuling Dist.

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	2004/12/14
Trial Court		**Trial Date**	2005/03/11
Sentence Court		**Sentence Date**	2005/04/27
Appeal Court	Hunan High People's Court	**Appeal Date**	
Appeal Ruling Court	Hunan High People's Court	**Appeal Ruling Date**	2005/06/02
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art398		

Short Summary

The Changsha Intermediate People's Court in Hunan province sentenced poet and journalist Shi Tao to 10 years' imprisonment on April 27, 2005, for disclosing state secrets to foreigners, a crime under Article 111 of the Criminal Law. The court found that Shi, then editorial director of Contemporary Trade News in Hunan, was informed at an editorial meeting about a secret Communist Party and government order. Reporters Without Borders said the order warned journalists about reporting during the 15th anniversary of the Tiananmen democracy protests. Shi e-mailed his notes about the order to the U.S.-based online newspaper "Democracy Forum." The Hunan High People's Court rejected Shi's appeal on June 2, 2005. Shi's conviction was based in part on evidence provided by Yahoo!'s China office. In November 2007, Yahoo! agreed to pay his family's legal expenses. Shi was detained on November 24, 2004, and arrested on December 14. He is currently serving his sentence in Deshan Prison in Hunan.

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Personal Details

CECC Record Number	2005-00291	**Ethnic Group**	Han
Detention Status	DET/suspend	**Sex**	M
Issue Category	rol/spch/FG/civil	**Age At Detention**	42
Main Name	Gao Zhisheng	**Religion**	
Chinese Characters (Main Name)	高智晟	**Occupation**	lawyer
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Beijing Shi (prov.)
		Residence Prefecture	Beijing Shi Muni. Urb. Area (pref.)
Additional Name(s)			
Pinyin Name		**Residence County**	Chaoyang Dist.

Imprisonment or Detention Details

Date of Detention	2006/08/15
Current Prison	Beijing?
Sentence Length (Years)	3
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Beijing Shi (prov.)
Prefecture Where Imprisoned (or Detained)	(na)
County Where Imprisoned (or Detained)	(na)

Legal Process

Legal Process	chg/tri-close/sent-suspend	**Formal Arrest Date**	
Trial Court		**Trial Date**	
Sentence Court	Beijing No. 1 Intermediate People's Court	**Sentence Date**	2006/12/22
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Short Summary

Gao Zhisheng, founder of the Beijing Shengzhi Law Firm, has represented numerous activists and religious groups. On October 18, 2005, Gao wrote an open letter to exposing widespread torture against Falun Gong practitioners. On November 4, officials closed his law firm and began a campaign of harassment against Gao, his family, and associates. Authorities abducted Gao on August 15, 2006, and formally arrested him on September 21. He was convicted on December 22 of "inciting subversion of state power" and subjected to a three-year sentence, suspended for five years. After Gao sent an open letter to the U.S. Congress in September 2007, he was taken away by public security, and then held and tortured for over 50 days. Gao disappeared on February 4, 2009, into official custody. On March 28, 2010, Gao contacted his family, associates, and news outlets for the first time since his disappearance. In late March and early April 2010, Gao gave several interviews, during which he reportedly appeared to be under surveillance. In late April 2010, Gao again appeared to have disappeared after visiting family in western China. His exact circumstances remain unclear.

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8/2/2010 9:32:14 AM

Personal Details

CECC Record Number	2008-00014	**Ethnic Group**	Uyghur
Detention Status	DET	**Sex**	
Issue Category	rel/assoc	**Age At Detention**	
Main Name	Alimjan Himit	**Religion**	Protestant (unreg. church)
Chinese Characters (Main Name)	阿里木江*依来提	**Occupation**	bus. staff, manager
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Xinjiang Uyghur Auto. Region
Additional Name(s)	Alimjan Yimit, Alimujiang Yimiti, Ahlimujiang	**Residence Prefecture**	Kashi [Kashgar] Pref.
		Residence County	
Pinyin Name			

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	2008/01/13
Trial Court	Kashi [Kashgar] Intermediate People's Court	**Trial Date**	2008/05/27
Sentence Court	Kashi [Kashgar] Intermediate People's Court	**Sentence Date**	2009/10/27
Appeal Court	Xinjiang Uighur Autonomous Region High People's Court	**Appeal Date**	
Appeal Ruling Court	Xinjiang Uighur Autonomous Region High People's Court	**Appeal Ruling Date**	2010/03/16
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Imprisonment or Detention Details

Date of Detention	2008/01/12
Current Prison	Xinjiang No. 3 Prison
Sentence Length (Years)	15
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Xinjiang Uyghur Auto. Region
Prefecture Where Imprisoned (or Detained)	Wulumuqi [Urumqi] Shi (pref.)
County Where Imprisoned (or Detained)	Wulumuqi [Urumqi] Shi Muni. Urb. Area (cty.)

Short Summary

According to CAA, authorities in Xinjiang detained Uyghur house church leader Alimjan Himit (Alimjan Yimit, Alimujiang Yimiti) on January 12, 2008. Authorities later charged him with inciting separatism and leaking state secrets. Alimjan Himit had worked as a manager in a foreign-owned company shut down for "engaging in illegal religious infiltration activities." In September 2007, authorities ordered him to stop "illegal religious infiltration activities." On May 27, 2008, the Kashgar Intermediate People's Court returned the case to the procuratorate due to "insufficient evidence." The procuratorate resubmitted the case in October 2008. According to CDN, on October 27, 2009 the Kashgar Intermediate People's Court convicted Alimjan Himit of "leaking state secrets" to foreign organizations, sentencing him to 15 years in prison. On March 16, 2010, the XUAR High People's Court upheld his conviction. Alimjan Himit is held at the Xinjiang No. 3 Prison in Urumqi.

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Personal Details

CECC Record Number	2004-05295	**Ethnic Group**	Han
Detention Status	DET	**Sex**	M
Issue Category	spch/assoc/civil/info	**Age At Detention**	34
Main Name	Hu Jia	**Religion**	
Chinese Characters (Main Name)	胡佳	**Occupation**	activist
		Affiliation	
Alternate Name (Lay or Pen)	胡嘉 (alt. Hu Jia)	**Residence Province**	Beijing Shi (prov.)
Additional Name(s)		**Residence Prefecture**	Beijing Shi Muni. Urb. Area (pref.)
Pinyin Name	Hu Jia	**Residence County**	Tongzhou Dist.

Imprisonment or Detention Details

Date of Detention	2007/12/27
Current Prison	Beijing Municipal Prison
Sentence Length (Years)	3
Sentence Length (Months)	6
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Beijing Shi (prov.)
Prefecture Where Imprisoned (or Detained)	Beijing Shi Muni. Urb. Area (pref.)
County Where Imprisoned (or Detained)	Daxing Dist.

Legal Process

Legal Process	chg/tri-open/sent-open	**Formal Arrest Date**	2007/01/29
Trial Court	Beijing No. 1 Intermediate People's Court	**Trial Date**	2008/03/18
Sentence Court	Beijing No. 1 Intermediate People's Court	**Sentence Date**	2008/04/03
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art105(2)/CL97-art56		

Short Summary

Hu Jia is an activist who has advocated on behalf of HIV/AIDS patients, environmental issues, and other rights defenders. On December 27, 2007, Beijing public security officials detained Hu and formally arrested him on January 29, 2008. The Beijing No 1 Intermediate People's Court tried him on March 18 and sentenced him on April 3 to 3 years, 6 months' imprisonment for "inciting subversion of state power." Hu had previously been placed under surveillance from July 17, 2006 to February 16, 2007 for his support of legal advocate Chen Guangcheng. Hu was also held incommunicado for 41 days in 2006 after he participated in a hunger strike to protest government abuses. On October 10, Hu was transferred from Chaobai Prison in Tianjin to the Beijing Municipal Prison. According to an April 8, 2010 CHRD report, Hu was diagnosed with liver cirrhosis in 2006 and remains in poor health. He was tested on March 30, 2010, for a growth on his liver, but the results are not known.

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Personal Details

CECC Record Number	2005-00126	**Ethnic Group**	Han
Detention Status	DET	**Sex**	M
Issue Category	rol	**Age At Detention**	34
Main Name	Chen Guangcheng	**Religion**	
Chinese Characters (Main Name)	陈光诚	**Occupation**	
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Shandong Province
		Residence Prefecture	Linyi Shi (pref.)
Additional Name(s)		**Residence County**	
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	2006/06/10
Current Prison	Linyi Prison
Sentence Length (Years)	4
Sentence Length (Months)	3
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Shandong Province
Prefecture Where Imprisoned (or Detained)	Linyi Shi (pref.)
County Where Imprisoned (or Detained)	Linyi Shi Muni. Urb. Area (cty.)

Legal Process

Legal Process	chg/tri-close?/sent-close?	**Formal Arrest Date**	2006/06/21
Trial Court	Yinan County People's Court	**Trial Date**	2006/11/27
Sentence Court	Yinan County People's Court	**Sentence Date**	2006/12/01
Appeal Court		**Appeal Date**	
Appeal Ruling Court	Linyi Intermediate People's Court	**Appeal Ruling Date**	2007/01/12
Sent. Ends Per PRC	2010/09/09	**Actual Date Released**	
Charge (Statute)	CL97-art291/CL97-art275		

Short Summary

Chen Guangcheng is a self-trained legal advocate who in 2005 drew international attention to population planning abuses in Linyi city, Shandong province. On September 6, 2005, Shandong authorities abducted Chen in Beijing and placed him under house arrest in Linyi. On March 11, 2006, they took him into custody after exceeding the 6-month limit for house arrests. Chen's wife was notified of his detention on June 11. Chen was formally arrested on June 21. On the eve of his August 18 trial, three of his defense lawyers were taken into custody. On August 24, the Yinan county court sentenced him to 4 years, 3 months in prison for "intentional destruction of property" and "gathering people to disturb traffic order." The appeals court vacated the judgment on October 31 and remanded the case for a retrial that took place November 27. On December 1, the Yinan court handed down the same judgment as before,which the appeals court affirmed on January 12, 2007. Chen is serving time in Linyi Prison.

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8/2/2010 9:34:08 AM

Personal Details

CECC Record Number	2009-00023	**Ethnic Group**	Tibetan
Detention Status	DET	**Sex**	F
Issue Category	eth/spch/info	**Age At Detention**	35
Main Name	Norzin Wangmo	**Religion**	
Chinese Characters (Main Name)	诺增旺姆(音)	**Occupation**	CCP, cadre
		Affiliation	Judicial Bureau (county-level)
Alternate Name (Lay or Pen)		**Residence Province**	Sichuan Province
Additional Name(s)	Walza Norzin Wangmo	**Residence Prefecture**	Aba [Ngaba] Tibetan & Qiang Auto. Pref.
Pinyin Name	Nuozeng Wangmu	**Residence County**	

Imprisonment or Detention Details

Date of Detention	2008/04/dd
Current Prison	Ngaba Prison? (Maowun)
Sentence Length (Years)	5
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Sichuan Province
Prefecture Where Imprisoned (or Detained)	Aba [Ngaba] Tibetan & Qiang Auto. Pref.
County Where Imprisoned (or Detained)	Mao [Maowun] Cty.

Legal Process

Legal Process	chg?/tri?/sent	**Formal Arrest Date**	
Trial Court		**Trial Date**	
Sentence Court		**Sentence Date**	2008/11/03
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Short Summary

Based on a November 2008 International Campaign for Tibet report, a December 2008 International Federation for Human Rights report (reprinted on the Web site of the United Nations High Commissioner for Refugees), and a December 2008 Free Tibet Campaign report, security officials detained Communist Party cadre Norzin Wangmo in April 2008 for sending emails and making phone calls abroad about "the situation in Tibet" (a reference to the wave of Tibetan protests and detentions that began in March 2008). Authorities reportedly tortured her after detaining her. Norzin Wangmo, the mother of two children, lived in Heishui (Trochu) county, located in Aba Tibetan and Qiang Autonomous Prefecture, Sichuan province, where she worked for the Heishui Judicial Bureau. A court (probably the Aba Intermediate People's Court) sentenced her to five years' imprisonment on November 3. Details are not available about Norzin Wangmo's precise date of detention, the criminal charges against her, or her place of imprisonment.

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8/2/2010 9:34:28 AM

Personal Details

CECC Record Number	2004-04053	**Ethnic Group**	Han
Detention Status	DET	**Sex**	M
Issue Category	spch/6489/info	**Age At Detention**	
Main Name	Huang Qi	**Religion**	
Chinese Characters (Main Name)	黄琦	**Occupation**	
		Affiliation	
Alternate Name (Lay or Pen)	Nanbo (pen name)	**Residence Province**	Sichuan Province
		Residence Prefecture	Chengdu Shi (pref.)
Additional Name(s)		**Residence County**	Chengdu Shi Muni. Urb. Area (cty.)
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	2008/06/10
Current Prison	Chuandong Prison
Sentence Length (Years)	3
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Sichuan Province
Prefecture Where Imprisoned (or Detained)	Dazhou Shi (pref.)
County Where Imprisoned (or Detained)	Dazhu Cty.

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	2008/07/18
Trial Court	Wuhou District People's Court	**Trial Date**	2009/08/05
Sentence Court	Wuhou District People's Court	**Sentence Date**	2009/11/23
Appeal Court		**Appeal Date**	
Appeal Ruling Court	Chengdu Intermediate People's Court	**Appeal Ruling Date**	2010/02/08
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Short Summary

The Wuhou District People's Court in Chengdu city, Sichuan province, sentenced rights activist Huang Qi on November 23, 2009, to three years in prison for illegal possession of state secrets. The court refused to provide a copy of the verdict and indicated only that the state secrets were city government documents. Huang's lawyer said the documents were publicly available. Huang had visited the Sichuan earthquake zone and wrote about collapsed schools and posted parents' appeals on his human rights Web site. He was detained shortly thereafter on June 10, 2008, and arrested on July 18. The court held his closed trial on August 5. Authorities reportedly kidnapped a person to prevent him from testifying for Huang. Huang suffers from numerous medical conditions, including tumors in his abdomen and hepatitis B, but authorities reportedly have refused to treat him. His appeal was denied on February 8, 2010. He is serving his sentence at the Chuandong Prison in Sichuan.

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8/2/2010 9:34:45 AM

Personal Details

CECC Record Number	2005-00018	**Ethnic Group**	Uyghur
Detention Status	DET	**Sex**	M
Issue Category	eth/spch	**Age At Detention**	31
Main Name	Nurmemet Yasin	**Religion**	Muslim
Chinese Characters (Main Name)	努尔买买提*亚森	**Occupation**	journalist, magazine
		Affiliation	
Alternate Name (Lay or Pen)	Nurmehemmet Yasin/ Orkishi (pen)	**Residence Province**	Xinjiang Uyghur Auto. Region
Additional Name(s)	Nurmuhemmet Yasin	**Residence Prefecture**	Kashi [Kashgar] Pref.
Pinyin Name		**Residence County**	(na)

Imprisonment or Detention Details

Date of Detention	2004/11/29
Current Prison	Xinjiang No. 1 Prison
Sentence Length (Years)	10
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Xinjiang Uyghur Auto. Region
Prefecture Where Imprisoned (or Detained)	Wulumuqi [Urumqi] Shi (pref.)
County Where Imprisoned (or Detained)	Wulumuqi [Urumqi] Shi Muni. Urb. Area (cty.)

Legal Process

Legal Process	chg/tri-close?/sent-close-app	**Formal Arrest Date**	
Trial Court	Bachu [Maralweshi] County People's Court	**Trial Date**	2005/01/dd
Sentence Court	Bachu [Maralweshi] County People's Court	**Sentence Date**	2005/02/02
Appeal Court	Kashi [Kashgar] Intermediate People's Court	**Appeal Date**	2005/03/17
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art103(2)/CL97-art249		

Short Summary

According to Radio Free Asia, Xinjiang authorities detained Nurmemet Yasin on November 29, 2004, after the Kashgar Literature Journal published his story "Wild Pigeon" in late 2004. The story tells of a caged bird who commits suicide rather than live without freedom. According to Dui Hua, on February 2, 2005, the Bachu (Maralweshi) County People's Court sentenced Nurmemet Yasin to 10 years' imprisonment for "inciting racial hatred or discrimination," a crime under Article 249 of the Criminal Law. Some sources have reported that the sentence was for "inciting splittism," a crime under Article 103 of the Criminal Law. On July 14, 2005, the same court sentenced Korash Huseyin, editor of the Kashgar Literature Journal, to three years' imprisonment for "dereliction of duty" for publishing Nurmemet Yasin's story. The Kashgar Intermediate People's Court upheld Nurmemet Yasin's sentence on appeal on March 17, 2005. He is currently held at Xinjiang No. 1 Prison.

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8/2/2010 9:34:58 AM

Personal Details

CECC Record Number	2008-00675	**Ethnic Group**	Han
Detention Status	DET	**Sex**	F
Issue Category	FG/rel/assoc/spch	**Age At Detention**	40
Main Name	Xu Na	**Religion**	Falun Gong
Chinese Characters (Main Name)	许那	**Occupation**	artist, painter
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Beijing Shi (prov.)
Additional Name(s)		**Residence Prefecture**	Beijing Shi Muni. Urb. Area (pref.)
Pinyin Name		**Residence County**	Chongwen Dist.

Legal Process

Legal Process	chg/tri-close?/sent	**Formal Arrest Date**	
Trial Court		**Trial Date**	
Sentence Court	Chongwen District People's Court	**Sentence Date**	2008/11/25
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)	CL97-art300		

Imprisonment or Detention Details

Date of Detention	2008/01/26
Current Prison	Beijing Women's Prison?
Sentence Length (Years)	3
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Beijing Shi (prov.)
Prefecture Where Imprisoned (or Detained)	Beijing Shi Muni. Urb. Area (pref.)
County Where Imprisoned (or Detained)	Daxing Dist.

Short Summary

According to AP/AFP reports and U.S.-based Falun Gong organizations, public security officials in Beijing detained artist Xu Na and her husband, folk musician Yu Zhou, on the night of January 26, 2008, at a checkpoint set up to increase security before the Olympics. Yu died 11 days later in police custody. The Beijing Chongwen District People's Court sentenced Xu to 3 years in prison on November 25, 2008, for "using a cult organization to undermine the implementation of the law" (Criminal Law, Article 300), based on the court's determination that she had possessed and intended to distribute documents and computer disks containing Falun Gong materials. Xu served a 5-year sentence from 2001 to 2006 for providing accommodation to practitioners from other provinces who visited Beijing. While serving her first sentence, Xu was reportedly beaten, deprived of sleep, force-fed, and tied down in uncomfortable positions. Xu is likely being held at the Beijing Women's Prison as she was in 2001.

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8/2/2010 9:35:15 AM

Personal Details

CECC Record Number	2008-00586	**Ethnic Group**	Tibetan
Detention Status	DET	**Sex**	M
Issue Category	eth/spch	**Age At Detention**	33
Main Name	Dondrub Wangchen	**Religion**	Tibetan Buddhist
Chinese Characters (Main Name)	顿珠旺钦(音)	**Occupation**	filmmaker, documentary
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	
		Residence Prefecture	(na)
Additional Name(s)		**Residence County**	(na)
Pinyin Name	Dunzhu Wangqin		

Imprisonment or Detention Details

Date of Detention	2008/03/26
Current Prison	Xichuan Prison
Sentence Length (Years)	6
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Qinghai Province
Prefecture Where Imprisoned (or Detained)	Xining [Ziling] Shi (pref.)
County Where Imprisoned (or Detained)	Chengxi Dist.

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	
Trial Court	Xining Intermediate People's Court	**Trial Date**	
Sentence Court	Xining Intermediate People's Court	**Sentence Date**	2009/12/28
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Short Summary

According to a September 2008 RSF report and information on the Filming for Tibet Web site, security officials detained Dondrub Wangchen and assistant Jigme Gyatso in March 2008 after they completed Leaving Fear Behind, a documentary featuring Tibetans in Qinghai province expressing views on the Dalai Lama, the Olympic Games, and Chinese law. Police detained Dondrub Wangchen on March 26 in Tongde county, Hainan TAP, Qinghai, and Labrang Tashikhyil monk Jigme Gyatso on March 23 in Linxia city, Gansu province. The men filmed 108 Tibetans; most spoke openly on camera. The film left China before police detained the men. The documentary, featuring 20 speakers, opened in August 2008. RFA reported in July 2009 that officials barred lawyer Li Dunyong from representing Dondrub Wangchen; HRW reported that he was charged with "inciting separatism." The Xining Intermediate People's Court sentenced Dondrub Wangchen on December 28, 2009, to 6 years in prison for splittism (RFA, 6 January 10); his family intended to appeal. Authorities transferred him to Xichuan Prison in Xining city, Qinghai Province (Filming for Tibet, 19 May 10).

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Personal Details

CECC Record Number	2004-02089	**Ethnic Group**	
Detention Status	DET	**Sex**	M
Issue Category	lab/spch/assoc	**Age At Detention**	
Main Name	Li Wangyang	**Religion**	
Chinese Characters (Main Name)	李旺阳	**Occupation**	worker (unspec.)
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Hunan Province
		Residence Prefecture	Shaoyang Shi (pref.)
Additional Name(s)		**Residence County**	Shaoyang Shi Muni. Urb. Area (cty.)
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	2001/05/06
Current Prison	Chishan Prison
Sentence Length (Years)	10
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Hunan Province
Prefecture Where Imprisoned (or Detained)	Yiyang Shi (pref.)
County Where Imprisoned (or Detained)	Yuanjiang Shi (cty.)

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	2001/mm/dd
Trial Court		**Trial Date**	2001/09/05
Sentence Court	Shaoyang Intermediate People's Court	**Sentence Date**	2001/09/11
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC	2011/05/05	**Actual Date Released**	
Charge (Statute)	CL97-art105(2)		

Short Summary

According to the China Labour Bulletin, Li Wangyang was secretly tried and sentenced to 10 years' imprisonment on September 20, 2001, for "inciting subversion of state power," a crime under Article 105 of the Criminal Law. He had previously received a 13-year prison term in 1989 for attempting to establish the Shaoyang Workers' Autonomous Federation. Months after his early release in June 2000, he began a hunger strike to obtain compensation for his maltreatment in prison. He said that he had been beaten and underfed while in prison, resulting in lung, heart, respiratory, and eye injuries, and sought to recover his medical costs. On June 6, 2001, he was re-arrested on his hospital bed, on the 22nd day of his hunger strike. His sister, Li Wangling, was sentenced to three years of reeducation through labor for helping Li publicize his demands.

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Personal Details

CECC Record Number	2004-05380	**Ethnic Group**	Han?
Detention Status	DET	**Sex**	M
Issue Category	rel/spch	**Age At Detention**	65
Main Name	Su Zhimin	**Religion**	Catholic (unreg. church)
Chinese Characters (Main Name)	苏志民	**Occupation**	bishop
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Hebei Province
		Residence Prefecture	Baoding Shi (pref.)
Additional Name(s)	James Su Zhimin	**Residence County**	
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	1997/10/08
Current Prison	Hebei (general location)
Sentence Length (Years)	
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Hebei Province
Prefecture Where Imprisoned (or Detained)	(na)
County Where Imprisoned (or Detained)	(na)

Legal Process

Legal Process	PSB?	**Formal Arrest Date**	
Trial Court		**Trial Date**	
Sentence Court		**Sentence Date**	
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC		**Actual Date Released**	
Charge (Statute)			

Short Summary

According to the Cardinal Kung Foundation, James Su Zhimin was arrested in March 1996 while, with Francis An Shuxin, he led a procession of Catholics to a Marian shrine near the village of Donglu in Hebei. The bishop (unregistered) of Baoding, Hebei, Su escaped the following month, went into hiding, and wrote an open protest letter to the National People's Congress. He was captured on October 8, 1997. Though Su has been the object of frequent American and international inquiry, the Chinese government has provided no information about him, and indeed claims that it has not taken any "coercive measures" against him. On November 15, 2003, the then 71-year-old Su was sighted at a hospital in Baoding, where, under heavy guard, he was undergoing an eye operation and treatment for a heart ailment. Since then he has disappeared again. His case has been connected with that of An Shuxin, his auxiliary bishop.

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Personal Details

CECC Record Number	2004-04807	**Ethnic Group**	Han?
Detention Status	DET	**Sex**	M
Issue Category	dem/assoc/lab/spch	**Age At Detention**	
Main Name	Hu Mingjun	**Religion**	
Chinese Characters (Main Name)	胡明军	**Occupation**	entrepreneur
		Affiliation	
Alternate Name (Lay or Pen)	胡明君	**Residence Province**	Sichuan Province
		Residence Prefecture	Chengdu Shi (pref.)
Additional Name(s)		**Residence County**	(na)
Pinyin Name			

Imprisonment or Detention Details

Date of Detention	2001/05/29
Current Prison	Chuanzhong Prison
Sentence Length (Years)	11
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Sichuan Province
Prefecture Where Imprisoned (or Detained)	Nanchong Shi (pref.)
County Where Imprisoned (or Detained)	Nanchong Shi Muni. Urb. Area (cty.)

Legal Process

Legal Process	chg/tri/sent	**Formal Arrest Date**	
Trial Court		**Trial Date**	
Sentence Court	Dazhou Intermediate People's Court	**Sentence Date**	2002/05/30
Appeal Court		**Appeal Date**	
Appeal Ruling Court		**Appeal Ruling Date**	
Sent. Ends Per PRC	2012/05/28	**Actual Date Released**	
Charge (Statute)	CL97-art105(1)		

Short Summary

According to China Labour Bulletin and the court judgment in his case, Hu Mingjun was sentenced on May 30, 2002, to 11 years' imprisonment for his role as one of the principal organizers of the Sichuan branch of the banned Chinese Democratic Party (CDP), and for writing and distributing written protests regarding the government's treatment of striking workers at a steel mill in Dazhou, Sichuan province. The Dazhou Public Security Bureau detained Hu on May 29, 2001, and formally arrested him on July 6, 2001. The Dazhou People's Procuratorate charged Hu and Wang Sen, another leader of the Sichuan CDP branch, with "assembling a crowd to propagate anti-government views, attempting to establish a Sichuan branch of the banned CDP, distortion and exaggeration of facts, and carrying out subversive propaganda." The Dazhou Intermediate People's Court convicted Wang of "subversion of state power," a crime under Article 105(1) of China's Criminal Law. Hu's sentence expires May 30, 2012. On June 24, 2010, Chinese Human Rights Defenders (CRD) reported that, since 2006, Hu has entered the prison's hospital four times seeking medical help. CRD reported that Hu is suffering from high blood pressure and heart disease. Hu also reportedly told a close associate that he is not optimistic about his own future, and that he may not leave the prison alive, according to the same CRD report.

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Personal Details

CECC Record Number	2004-02045	**Ethnic Group**	Mongol
Detention Status	DET	**Sex**	M
Issue Category	spch/assoc	**Age At Detention**	
Main Name	Hada	**Religion**	Tibetan Buddhist
Chinese Characters (Main Name)	哈达	**Occupation**	book/magazine vendor
		Affiliation	
Alternate Name (Lay or Pen)		**Residence Province**	Inner Mongolia [Neimenggu] Auto. Region
Additional Name(s)		**Residence Prefecture**	Huhehaote [Hohhot] Shi (pref.)
Pinyin Name		**Residence County**	

Imprisonment or Detention Details

Date of Detention	1995/12/11
Current Prison	Inner Mong. No. 4 Pr. (Chifeng)
Sentence Length (Years)	15
Sentence Length (Months)	
Sentence Length (Weeks)	
Sentence Length (Days)	
Province Where Imprisoned (or Detained)	Inner Mongolia [Neimenggu] Auto. Region
Prefecture Where Imprisoned (or Detained)	Chifeng Shi (pref.)
County Where Imprisoned (or Detained)	Chifeng Shi Muni. Urb. Area (cty.)

Legal Process

Legal Process	chg/tri/sent-app	**Formal Arrest Date**	1996/03/09
Trial Court		**Trial Date**	1996/mm/dd
Sentence Court	Hohhot Intermediate People's Court	**Sentence Date**	1996/11/11
Appeal Court		**Appeal Date**	
Appeal Ruling Court	Inner Mongolia Autonomous Region High People's Court	**Appeal Ruling Date**	1997/01/dd
Sent. Ends Per PRC	2010/12/10	**Actual Date Released**	
Charge (Statute)	CL97-art103/CL97-art110		

Short Summary

According to Human Rights in China (HRIC), International PEN, and Duihua (DH), authorities detained Mongol activist Hada on December 11, 1995, after he organized peaceful protests for ethnic rights in Hohhot. In 1992, Hada founded the Southern Mongolian Democratic Alliance to promote self-determination and democracy in Inner Mongolia. The Hohhot Intermediate People's Court sentenced him on November 11, 1996, to 15 years imprisonment for "splittism" and "espionage." Fellow activist Tegexi received a ten year sentence at the same trial for "splittism" and was released in early December 2002. According to DH, the Inner Mongolia High People's Court rejected Hada's appeal in January 1997. Hada remains in the Inner Mongolia No. 4 Prison in Chifeng, where HRIC reports he is in poor health, has been denied proper medical treatment, and has been subject to routine physical abuse. Hada is due for release from prison on December 10, 2010.