

in November—which I cosigned—to the Chairman of the Russian State Duma urging the rejection of this legislation. In particular, the letter emphasized the importance that nongovernmental organizations play in civil society and in fulfilling Russia's obligations as a democratic state and member of the international community.

Russia has made great strides since the end of the Cold War. There were serious concerns that Russia would not have a smooth transition to a fully functioning democracy. I am gravely concerned about recent developments in Russia. President Putin himself has said that "modern Russia's greatest achievement is the democratic process (and) the achievements of civil society". I therefore call on President Putin and the State Duma to be true to their word and reject this bill, to reaffirm their commitment to the democratic process and civil society.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. REICHERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 312, as amended.

The question was taken.

The SPEAKER. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

#### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 312.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### CONDEMNING THE LAOGAI

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 294) calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government, as amended.

The Clerk read as follows:

H. CON. RES. 294

Whereas the Laogai is a vast prison labor system in the People's Republic of China and consists of a network of more than 1,000 prisons, camps, and mental institutions in which detainees must work at factories, farms, mines, and other facilities;

Whereas the two major aims of the Laogai are to generate economic resources for the

state through free labor and to "reform criminals" through hard labor and political indoctrination;

Whereas the Government of the People's Republic of China relies on the Laogai as a tool for political suppression of pro-democracy activists, Internet dissidents, labor activists, and religious and spiritual believers, including Han Chinese, Tibetans, Uyghurs, Mongolians, and "house church" Christians;

Whereas, while the Soviet Gulags no longer exist, the Chinese Laogai is still fully operational, subjecting most of its three million prisoners to forced labor by threatening torture;

Whereas fifty million people have suffered as prisoners in the Laogai since its inception;

Whereas Laogai prisoners are deprived of religious freedom and forced to give up their political views in order to become a "new socialist person" and uphold communism and the Chinese Communist Party;

Whereas in recent years, more than 100,000 religious believers have been unjustly and illegally imprisoned in one Laogai camp alone, where they have been beaten, tortured, and often killed;

Whereas Laogai prisoners are forced to work long hours in appalling conditions, including mining asbestos and other toxic chemicals with no protective clothing, tanning hides while standing naked in vats filled with chemicals used for softening of animal skins, and working in mining facilities where explosions and other accidents are a common occurrence;

Whereas it is documented that China's national policy since 1984 has been to extract organs from executed prisoners without prior consent of the prisoners or their family members, setting China apart from every other country in the world;

Whereas there are more than 1,000 instances in which organs are harvested from executed Chinese prisoners every year;

Whereas both Chinese and foreign patients from around the world receive organs transplanted from executed Chinese prisoners;

Whereas Laogai prisoners are required to make confessions of their wrongdoings, which include political and religious views that the Chinese Communist Party wishes to suppress;

Whereas Chinese citizens are not guaranteed due process of law nor even a right to trial;

Whereas many individuals are often convicted and sentenced with no trial at all, or they are convicted with "evidence" extracted through torture;

Whereas in one part of the Laogai system known as the Laojiao, or reeducation-through-labor, Chinese citizens can be detained for up to three years without any judicial review or formal appearance in the judicial system;

Whereas goods produced by forced labor in the Laogai system continue to be exported to the United States and the world;

Whereas the Chinese Government has continuously encouraged the export of goods produced through the Laogai prison system and relies on forced labor as an integral part of its economy;

Whereas forced labor and torture practices carried out in the Laogai violate international laws, standards, and treaties to which China is party, including the United Nations Charter, the Universal Declaration of Human Rights, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and

Whereas China, a member State of the International Labor Organization, also violates many agreements regarding labor conditions and the rights of workers: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) calls on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government;

(2) calls on the Government of the United States to fully implement United States laws that prohibit the importation of forced labor products made in the Laogai;

(3) calls on the Government of the United States to take actions to review the implementation of the Memorandum of Understanding on Prison Labor in 1992 and the Statement of Cooperation in 1994 with respect to the Laogai;

(4) will undertake efforts to join with the European Parliament to urge the introduction of a resolution at the United Nations Human Rights Commission condemning the Laogai and the human rights situation in China;

(5) calls on the Government of the People's Republic of China to release information about the Laogai, including the total number of Laogai camps and prisoners throughout China, the exact locations of the camps, and the business production activities taking place at the camps;

(6) calls on the Government of the People's Republic of China to release information about the number of executions of prisoners at the camps that are carried out every year, and the extent of the harvesting and transplantation of organs of executed prisoners;

(7) urges the Government of the People's Republic of China to allow unrestricted visits by international human rights inspectors, including United Nations inspectors, to Laogai camps throughout China; and

(8) urges the Congressional-Executive Commission on China to continue to investigate the Laogai system in China and to make recommendations for United States policy that will help protect human rights for Chinese citizens.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution which calls for the condemnation of the vast Laogai labor system of more than 1,000 prisons, camps and mental institutions maintained by the government of the People's Republic of China, and of the use of forced labor as an integral part of China's economy.

I would note parenthetically that, back in 1992, the gentleman from Virginia (Mr. WOLF) and I gained access to one of those prison camps, Beijing Prison Camp Number 1, a horrible place where 40 Tiananmen Square activists were being punished for their peaceful activities. Hundreds of others were also imprisoned there for political, religious and other alleged crimes. The place reeked of cruelty and sadness and was a nightmarish insight into the dark soul of the Chinese Communist dictatorship. Today, sadly, the Laogai continues its cruelty unabated.

Indeed, the continued operation of this network of Stalinist camps within

China's borders raises grave questions about Beijing's commitment to engage in reform even after it seeks to be recognized as a leader among the community of nations.

The Laogai, which was created by the Chinese Communist party under Mao Zedong and modelled after the Soviet Gulag system, serves the one-party dictatorship as a tool to maintain control of a population yearning to be free. The Laogai system has tormented more than 50 million people since its founding and still contains as many as 4 million prisoners today. It not only provides the government a source of cheap labor, it also serves to instill fear in its citizens lest they be forced to go through "reeducation" through hard labor and compulsory political indoctrination.

The low cost of maintaining these prisons provides additional incentive for the PRC to continue its use of the Laogai system. The use of slave labor to manufacture a product for export as an integral part of its economy represents not only a violation of international law and labor standards but represents an unfair trade practice which widens the trade deficit and threatens American jobs.

As is so common in authoritarian regimes, the PRC represses freedom of religion and expression through this system of more than 1,000 prisons. As we know, Mr. Speaker, these prisoners are given no legal rights and are often tortured in order to induce confessions. All Laogai prisoners are forced to labor in order to remake them as new socialist persons. New arrivals are subjected to immediate, daily, lengthy interrogation sessions and forced to admit their "crimes." These sessions may last days, weeks and even months. In some cases, they last years. If a prisoner resists, he or she is tortured.

The horrifying trade in human organs from China is the latest development of the Laogai system. The organs of more than 1,000 executed prisoners have reportedly been harvested for money. In the 1990s and to the year 2005, as part of the series of about 24 Congressional hearings that I have chaired on human rights abuses in China, I conducted one extraordinary hearing on this grizzly business. In that hearing, with the help of the great Harry Wu, a survivor of the Laogai himself, we heard from a former PRC police officer who testified and brought compelling proof as to how prisoners were shot, but not killed, and moved to awaiting ambulances to begin the process of removing their organs for transplantation.

The practice reminded me and many others in that hearing of the atrocities committed by the infamous Nazi, Dr. Joseph Mengele.

Despite numerous human rights treaties, Mr. Speaker, to which the PRC is a signatory, the government continues to use the Laogai as a means to suppress groups such as the Falun Gong and other religious believers, but in the

case of the Falun Gong, up to 50 percent of the Laogai prisoner population is made up of those individuals.

Cyber dissidents and journalists are increasingly being crushed by the Laogai system as well. As in the case of Shi Tao, a journalist who is now serving a 10-year forced labor sentence at a jewelry factory attached to the Chishan prison for sending an e-mail through his Yahoo account warning journalists of the dangers of social destabilization and the risks of return of certain dissidents on the 15th anniversary of the Tiananmen Square massacre.

I point out to my colleagues, and I hope that each and every one of you will read this, there is a very, very strong statement on torture by the U.N. rapporteur on torture who has just finished his report, Manfred Nowak.

He said that the abuse of suspects and prisoners remains widespread. His report describes some of the torture methods used by China's police and prison officers to extract confessions and maintain discipline: Emersion in sewage, sleep deprivation, cigarette burns and beating with electric prods. Not surprisingly, Mr. Nowak also accused the Chinese officials of systematically interfering with his investigations.

Victims and family members were intimidated by security personnel during the visit, placed under surveillance or instructed not to meet with Mr. Nowak. Among the prisoners, Mr. Nowak said he observed "a palpable level of fear and self-censorship" that he had not seen in missions in other countries.

One cannot be optimistic given recent events, but killings by gunfire last week of at least 20 residents in the village of Dongzhou in southern China by Beijing's security forces is further evidence that China has a long way to go in achieving the rule of law.

The cold-blooded murder of these villagers protesting over land use and the corruption demonstrates clearly that, 16 years after Tiananmen Square, Chairman Mao's famous dictum that "all political power comes from the barrel of the gun" is still the credo of Beijing's leaders.

Those among our friends in Europe who seek removal of an arms embargo against China should reflect on the use of guns and bullets to kill the innocent villagers in Dongzhou and to keep 4 million inmates, many prisoners of conscience, locked up in the vast Laogai system.

This resolution sends a strong message, and I urge its passage.

SPECIAL RAPPORTEUR ON TORTURE HIGHLIGHTS CHALLENGES AT END OF VISIT TO CHINA

#### INTRODUCTION

BEIJING, 2 December 2005.—The Special Rapporteur of the United Nations Commission on Human Rights on torture and other cruel, inhuman or degrading treatment or punishment concluded a two-week visit to the People's Republic of China (PRC) today.

Nearly a decade after the initial request, the visit to the PRC by the United Nations Special Rapporteur on Torture, Manfred Nowak, finally materialised from 20 November to 2 December, and included visits to Beijing, Lhasa, Tibet Autonomous Region (TAR) and Urumqi, Xinjiang Uighur Autonomous Region (XUAR). The long-awaited visit of the Special Rapporteur on Torture to China has its origins in a 1995 request by the then Special Rapporteur, Sir Nigel Rodley, for an invitation to carry out a fact-finding visit. The Government responded in 1999 with an invitation for a "friendly visit" in May 2000, however, differences between the Government and the Special Rapporteur on the standard methodology for country visits by United Nations human rights experts (including unannounced visits to detention centres and private meetings with detainees) prevented it from being realized. In spring 2004, the Government extended an unconditional invitation to the then Special Rapporteur, Theo van Boven, for a two-week visit in June of that year, which was then postponed by the Government. Upon Manfred Nowak's appointment as Special Rapporteur on Torture in December 2004, the Government of China renewed its invitation for a visit in 2005, accepting his Terms of Reference.

The mission's aim was two-fold: fact-finding and starting a process of cooperation aimed at the common goal of eradicating torture in the PRC.

The Special Rapporteur wishes to express his deep appreciation to the Ministry of Foreign Affairs, in particular Dr. Shen Yongxiang, Special Representative on Human Rights Affairs, and his team for their professionalism, cooperation, and shared commitment to the objectives of the mission. The Special Rapporteur credits the Ministry for its great efforts in ensuring that the mission proceeded as smoothly as possible and that his Terms of Reference were in principle respected. All meetings with detainees were carried out in privacy and in locations designated by the Rapporteur. No request for a meeting or interviewing of a particular individual was refused. Prison staff were generally cooperative. The Special Rapporteur was also able to meet with a number of individuals outside of his official programme, notwithstanding the obstructions elaborated upon below.

While visits were also planned for Jinan in Shandong Province and Yining in the XUAR, the Special Rapporteur sincerely regrets that he had to cancel these visits due to time constraints, and expresses his gratitude to the Ministry of Foreign Affairs and the respective leaderships of Shandong Province and Yining Autonomous Prefecture for accommodating these last minute changes to the programme.

While in Beijing, the Special Rapporteur met with Government officials, including the Assistant Foreign Minister, the Vice Ministers of Justice and Public Security, the Deputy Procurator-General, as well as prominent members of civil society including the All China Lawyers' Association, the Beijing Lawyers' Association, China University for Political Science and Law, Renmin University, Tsinghua University, Beijing University, the Chinese Academy of Social Sciences, and the Beijing Child Legal and Research Centre. Meetings were also held with individual lawyers, human rights defenders, academics, and members of the diplomatic corps and UN country team. In Lhasa and Urumqi, the Special Rapporteur met with local officials including from the Ministry of Foreign Affairs, the People's Court, the Procuratorate, and Departments of Justice and Public Security.

In Beijing, the Special Rapporteur visited the Municipal Detention Centre, Prison No. 2

(twice), and the Municipal Women's Re-education Through Labour (RTL) Facility. In Lhasa he visited Lhasa Prison, Tibet Autonomous Region Prison (also known as Drapchi Prison), and the recently-opened Qushui Prison. In Urumqi, he visited Prison Nos. 1, 3, and 4, as well as the Liu Dao Wan Detention Centre. In all facilities, the Special Rapporteur met with prison management and interviewed detainees in private.

PARTICULAR CIRCUMSTANCES OF THE FACT-FINDING MISSION

The Special Rapporteur feels compelled to point out that some Government authorities, particularly the Ministries of State Security and Public Security, attempted at various times throughout the visit to obstruct or restrict his attempts at fact-finding. The Special Rapporteur and his team were frequently under surveillance by intelligence personnel, both in their Beijing hotel as well as in its vicinity. Furthermore, during the visit a number of alleged victims and family members were intimidated by security personnel, placed under police surveillance, instructed not to meet the Special Rapporteur, or were physically prevented from meeting with him.

Prison officials imposed their own working hours as limits for interviews which curtailed the number of facilities that could be visited and the number of detainees interviewed. The Special Rapporteur and his team were also prevented from bringing photographic or electronic equipment into prisons.

Furthermore, in contrast to his previous country visits, the Special Rapporteur was unable to obtain a letter of authorization from the relevant authorities to visit detention centres on his own. Consequently, officials from the Ministry of Foreign Affairs accompanied him to detention centres in order to ensure unrestricted access. As the authorities were generally informed an hour in advance, the visits could not be considered to have been strictly "unannounced." Nonetheless, this practice significantly improves upon the modalities employed in previous visits to China of Special Procedures of the Commission on Human Rights.

In his interviews with detainees, the Special Rapporteur observed a palpable level of fear and self-censorship, which he had not experienced in the course of his previous missions. A considerable number of detainees did not express a willingness to speak with the Rapporteur, and several of those who did requested absolute confidentiality.

Under these conditions and taking into account the size and complexity of China as well as the limited duration of the mission, the Special Rapporteur acknowledges the limitations in drawing up a comprehensive set of findings and conclusions on the situation of torture and ill-treatment in China.

SITUATION OF TORTURE AND ILL-TREATMENT

The Special Rapporteur recalls that over the last several years his predecessors have received a significant number of serious allegations related to torture and other forms of ill-treatment in China, which have been submitted to the Government for its comments. These have included a consistent and systematic pattern of torture related to ethnic minorities, particularly Tibetans and Uighurs, political dissidents, human rights defenders, practitioners of Falun Gong, and members of house-church groups. These allegations have been and continue to be documented by international human rights organizations.

The methods of torture alleged include, among others: beatings; use of electric shock batons; cigarette burns; hooding/blind-folding; guard-instructed or permitted beatings by fellow prisoners; use of handcuffs or ankle fetters for extended periods (including

in solitary confinement or secure holding areas), submersion in pits of water or sewage; exposure to conditions of extreme heat or cold, being forced to maintain uncomfortable positions, such as sitting, squatting, lying down, or standing for long periods of time, sometimes with objects held under arms; deprivation of sleep, food or water; prolonged solitary confinement; denial of medical treatment and medication; hard labour; and suspension from overhead fixtures from handcuffs. In several cases, the techniques employed have been given particular terminologies, such as the "tiger bench", where one is forced to sit motionless on a tiny stool a few centimeters off the ground; "reversing an airplane", where one is forced to bend over while holding legs straight, feet close together and arms lifted high; or "exhausting an eagle", where one is forced to stand on a tall stool and subjected to beatings until exhaustion. On the basis of the information he received during his mission, the Special Rapporteur confirms that many of these methods of torture have been used in China.

Although he cannot make a detailed determination as to the current scale of these abuses, the Special Rapporteur believes that the practice of torture, though on the decline—particularly in urban areas—remains widespread in China. Indeed, this is increasingly recognized by Government officials and reports. According to the 2005 Supreme People's Procuratorate's (SPP) report to the National People's Congress presented on 9 March 2005, covering the year 2004, 1595 civil servants had been investigated for suspected criminal activity in cases involving "illegal detention, coercion of confessions, using violence to obtain evidence, abuse of detainees, sabotaging elections, and serious dereliction of duty resulting in serious loss of life or property." The report goes on to note that this is a 13.3 percent increase over the previous year's totals and that the SPP personally investigated 82 of the most serious cases. When compared with other national statistics, these official figures are clearly the tip of the iceberg in a country the size of China and demonstrate that most victims and their families are reluctant to file complaints for fear of reprisal or lack of confidence that their complaints will be addressed effectively.

EFFORTS BY THE GOVERNMENT TO COMBAT TORTURE

In recognizing the problem, the Government has undertaken a number of measures to tackle torture. In August 2003, the Minister of Public Security, Zhou Yongkang, issued a set of unified regulations on the standardization of law-enforcement procedures for public security institutions entitled, "Regulations on the Procedures for Handling Administrative Cases", including procedures defining police powers in respect of time limits for confiscation of property, legal means for gathering evidence, time limits on investigation and examination of suspects, etc. In 2004, the Ministry issued regulations prohibiting the use of torture and threats to gain confessions. The Supreme People's Procuratorate announced that eliminating interrogation through torture would be a priority of their work agenda and has instructed procurators that confessions obtained as a result of torture cannot form a basis for the formal approval of arrests and that prosecutors must work to eliminate illegally obtained evidence.

In addition to initiatives at the central level, the Zhejiang provincial Public Security Department issued regulations on forced confessions stating that local police chiefs will be expected to resign in any district where there are more than two cases of

forced confessions resulting in injuries, miscarriages of justice or public order problems. In mid-April 2005, Sichuan law enforcement and judicial authorities issued a joint opinion that prohibits the use of illegally obtained evidence, such as coerced confessions in criminal trials, and requires courts to exclude coerced statements and confessions if police cannot provide a rational explanation of the alleged coercion or refuse to investigate allegations of abuse.

Practical measures to combat torture have included piloting systems of audio and video recording in interrogation rooms, strengthening representation during the investigative and pre-trial phase of the criminal process by placing lawyers on a 24-hour basis in pilot police stations, designing interrogation rooms which separate suspects from interrogators, and placing resident procurators in places of detention and near public security bureaux to supervise law enforcement personnel.

The Special Rapporteur also observes positive developments at the legislative level including the planned reform of several laws relevant to the criminal procedure, which he hopes will bring Chinese legislation into greater conformity with international norms, particularly the fair trial standards contained in the International Covenant on Civil and Political Rights (CCPR) which China signed in 1998 and is preparing to ratify. He also welcomes the resumption by the Supreme People's Court (SPC) of its authority to review all death penalty cases, particularly given the fact that the quality of the judiciary increases as one ascends the hierarchy. The Special Rapporteur suggests that China might use the opportunity of this important event to increase transparency regarding the number of death sentences in the country, as well as to consider legislation that would allow direct petitioning to the SPC in cases where individuals do not feel that they were provided with adequate relief by lower courts in cases involving the use of torture, access to counsel, etc.

NEED FOR FURTHER EFFORTS TO PREVENT AND ADDRESS TORTURE

The Special Rapporteur notes that China was among the first States to ratify the UN Convention against Torture (CAT) in 1988, which requires States parties to take measures for the prevention of torture and to punish every act of torture with appropriately serious penalties. Although Chinese law prohibits gathering evidence through torture and provides for punishment of those guilty of torture, the Chinese definition of torture does not fully correspond to the international standard contained in CAT. In particular, physical or psychological torture that leaves no physical trace is difficult if not impossible to punish with appropriate penalties in China (indeed, the Chinese word for torture, "kuxing," principally connotes physical torture).

Combating torture in China is further impeded by the absence of essential procedural safeguards necessary to make its prohibition effective, including: the effective exclusion of evidence from statements established to be made as a result of torture; the presumption of innocence; the privilege against self-incrimination; timely notice of reasons for detention or arrest; prompt external review of detention or arrest; granting of non-custodial measures, such as bail; the right of habeas corpus; and timely access to counsel and adequate time and facilities to prepare a defence.

Other serious shortcomings are the lack of an independent monitoring mechanism of all places of detention and a functional complaints mechanism. A number of authorities have pointed out that mechanisms exist in

China for individuals to report instances of torture, particularly procurators, some of which are resident in prisons and near police stations. However, the Special Rapporteur believes that it is difficult to rely on the vigilance of procurators whose interest in convicting suspects as charged might compromise their ability to oversee the police and prison guards. In addition, procurators encounter many difficulties in practice to exercise their supervisory role, including because detainees are afraid to report instances of torture to them.

During his mission, the Special Rapporteur noted the inefficiency of current complaint mechanisms. He was informed, for example, that in Prison No. 4 in Urumqi, the procurators have not received a single torture complaint during the last decade. In the Tibetan Autonomous Region, he was told that no complaint had been received since 2003 and in the Beijing Municipal Detention Centre, none were received since its establishment in June 2004. In the Xinjiang Uighur Autonomous Region, two cases of torture were established by the courts since 2000, and in the Tibet Autonomous Region one such case had been confirmed. The Deputy Procurator-General of the PRC informed the Special Rapporteur that only 33 law enforcement officials had been prosecuted for torture throughout the country during the first nine months of 2005.

Indeed, an important element in combating torture is judicial oversight. However, China lacks an independent judiciary, and the judiciary suffers from relatively low status in comparison to other State organs. Without a court system that judges cases fairly and independently according to law, thereby redressing grievances in a timely manner, the problem of torture cannot be brought under effective control, particularly in a context where police exercise wide discretion in matters of arrest and detention and are under great pressure to solve cases.

#### FORCED RE-EDUCATION AS A FORM OF INHUMAN AND DEGRADING TREATMENT

The Special Rapporteur also pointed to conceptual or ideological constraints to the effective implementation of the prohibition of torture. The criminal justice system is focused on admission of culpability, and the role of obtaining confessions continues to be central to successful prosecutions. In fact even after persons, who have not confessed to an offence, have been convicted and sentenced, these persons are subject to restrictions within prison, such as limited restricted access to telephone or visiting privileges until they confess, or are provided the incentive of a reduced sentence if they confess. Moreover, the system as such places a strong emphasis on change and re-education of the criminal, and the acceptance of punishment.

Societies that have been successful in establishing a human rights culture differ from others in the degree of tolerance of the majority towards those whose behavior deviates from standard moral and social norms. This right to be different, which finds its legal expression in the human rights to privacy, freedom of expression, religion, assembly and association, lies at the very heart of any democratic society. These freedoms and political rights were not enacted to protect conformist behavior, but non-conformist behavior.

Under international human rights law, Governments are only permitted to interfere with the expression of political opinions, religious convictions, moral values or minority views when they constitute incitement to hatred or violence or a direct threat to national security or public safety in the country. A system of State surveillance of citi-

zens with non-conformist views and with severe punishments for such "deviant behavior", such as Re-Education through Labour (RTL), seems to be incompatible with the core values of a society based upon a culture of human rights and leads to intimidation, submissiveness, self-censorship and a "culture of fear", which interferes with the right not to be subjected to inhuman and degrading treatment or punishment.

Every society has the right, and indeed is required by article 10 of the CCPR, to assist convicted criminals during their prison term through vocational training, education, and measures aimed at ensuring their equal access to the labour market in order to become law-abiding citizens. However, efforts aimed at the rehabilitation and re-socialisation of persons who committed crimes should be clearly distinguished from forms of deprivation of liberty aimed at the forceful re-education of human beings with deviant behaviour through labour and coercion.

The system of RTL in China and similar methods of re-education in prisons and even in pre-trial detention centres go well beyond legitimate rehabilitation measures and aim at breaking the will of detainees and altering their personality. Such measures strike at the very core of the human right to personal integrity, dignity and humanity, as protected by Articles 7 and 10 of the CCPR, as well as articles 1 and 16 of the CAT. RTL constitutes not only a serious violation of the human right to personal liberty, but must also be considered as a systematic form of inhuman and degrading treatment or punishment, if not torture. RTL and similar measures of forced re-education in prisons, pre-trial detention centres and psychiatric hospitals should therefore be abolished.

#### CIRCUMSTANCES SURROUNDING CAPITAL PUNISHMENT

The Special Rapporteur also expressed concern about the circumstances surrounding the death penalty, including the situation of prisoners on death row. At the Beijing Municipality Detention Centre, where the Rapporteur spoke with prisoners sentenced to death at first instance and awaiting appeal, he noted that these prisoners were handcuffed and shackled with leg-irons weighing approximately 3kg, 24 hours per day and in all circumstances (i.e. including during meals, visits to the toilet, etc). Prison officials indicated that the average length of appeal was two months. This practice is reportedly based on a nation-wide regulation for detention facilities. When questioned by the Special Rapporteur on the reasons for the handcuffs and shackles around the clock, prison officials indicated that this was necessary for their own safety, the security of others, to prevent them from fleeing, and to prevent suicide. However, in the Liu Dao Wan Detention Centre in Urumqi, death row prisoners were "only" shackled and not handcuffed. In the opinion of the Special Rapporteur this practice is inhuman and degrading and serves only as an additional form of punishment of someone already subjected to the stress and grievance associated with having been sentenced to death. The Special Rapporteur also expressed concern at the high number of crimes for which the death penalty can be applied. He encouraged the Government to both narrow its scope and to be more transparent towards family members and the public at large regarding its use; including by making statistics on the death penalty public information.

#### RECOMMENDATIONS TO THE GOVERNMENT OF THE PRC

Among his key preliminary recommendations to the Government, the Special Rapporteur recommended:

Reform the criminal law by adding the crime of torture in accordance with the defi-

nition contained in CAT (Art. 1) with appropriate penalties.

Ensure that the reform of the criminal procedure law conforms to ICCPR fair trial provisions, including by providing for the following: the right to remain silent and the privilege against self-incrimination; the right to cross-examine witnesses and the effective exclusion of evidence extracted through torture.

Reform the criminal justice system by transferring several functions of the procurators to the courts, for example, authorization of detention and supervision of the police.

Allow lawyers—particularly criminal defense lawyers—to be more effective in representing the rights and interest of their clients including through involvement at the earliest stages of police custody and pre-trial detention.

Abolish Section 306 of the Criminal Law, according to which any lawyer who counsels a client to repudiate a forced confession, for example, could risk prosecution.

Take measures to enhance the professionalism, efficiency, transparency, and fairness of legal proceedings; and raise the status and independence of judges and courts within the Chinese legal system.

Reduce the number of pre-trial detainees by enlarging the use of noncustodial measures such as bail.

Establish an independent complaints mechanism for detainees subject to torture and ill-treatment.

Accept the right of individual petition to the Committee against Torture and its competence to initiate an inquiry procedure in accordance with Articles 20 and 22.

Abolish imprecise and sweeping definitions of crimes that leave large discretion to law enforcement and prosecution authorities such as "endangering national security", "disrupting social order", "subverting public order," etc.

Abolish "Re-Education through Labour" and similar forms of forced reeducation of detainees in prisons and pre-trial detention centres and psychiatric hospitals.

Bring conditions on death row into conformity with the right of detainees with humane treatment.

Limit the scope of the death penalty by abolishing it for economic and nonviolent crimes.

Utilize the opportunity of the planned restoration of Supreme Court review for all death sentences to publish national statistics on the application of the death penalty.

Establish a national human rights institution in accordance with the Paris Principles. The United Nations Commission on Human Rights and General Assembly have adopted a set of guiding principles on the role, composition, status and functions of national human rights institutions commonly known as the Paris Principles. Commission on Human Rights Resolution 1992/54 of March 1992 and General Assembly Resolution A/RES/48/134 of 20 December 1993. With the authority to carry out unannounced visits to all places of detention.

Ratify the Optional Protocol to the UN Convention against Torture.

Ratify the UN Covenant on Civil and Political Rights.

That OHCHR provide support to the above through its technical cooperation programme within the framework of the recent MOU signed between the High Commissioner for Human Rights and the Chinese Government.

The Special Rapporteur expresses his appreciation to the Government for inviting him to visit the country and looks forward to a long-term process of cooperation with the Government to combat torture and ill-

treatment. He also expresses his appreciation for the support of the UN Country Team in China, and the Office of the High Commissioner for Human Rights.

The Special Rapporteur will submit a comprehensive written report on the visit to the UN Commission on Human Rights at its sixty-second session in 2006.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker I rise in strong support of this resolution. Mr. Speaker, at the outset, I want to commend my friend from New Jersey for his eloquent and powerful statement.

It was my great pleasure, Mr. Speaker, to join my good friend and colleague, my co-chairman of the Congressional Human Rights Caucus, the gentleman from Virginia (Mr. WOLF) in introducing this important measure regarding China's continued use of forced labor.

□ 2230

Mr. Speaker, the horrendous treatment of prisoners of conscience in China's legal system is legendary. Courtrooms are closed to families. Defense lawyers are imprisoned if they defend their clients vigorously. And the judges themselves make their decisions based on orders from the Communist Party, not based upon the law or the facts of the case.

The other failure of the Chinese State to allow freedom of expression and religion is only exacerbated by the treatment of prisoners upon their arrival in forced labor camps. Prisoners of conscience are forced to work under horrendous, life-threatening conditions for years on end, often with little or no contact with their families.

Thanks to the groundbreaking work of former political prisoner, our friend Harry Wu, we now have documentation that political prisoners have been forced to labor in dangerous mines and in toxic chemical factories with no protective clothing. Other prisoners of conscience are forced to work on assembly lines for up to 18 hours a day, generating cheap clothing and other products destined for sale in the United States and other developed Nations.

Despite two different agreements between the United States and China on the forced labor issue in the early 1990s, prison labor products continue to flow into our Nation and are sold by some of America's largest retailers.

It is also important to remember, Mr. Speaker, that many people are dispatched to the Laogai prison labor system without any trial whatsoever. Tens of thousands of Falun Gong members have been sent involuntarily to psychiatric institutions and other labor camps. Upon arrival, they have been subjected to forced labor, cruel beatings, violent torture, and even death.

Mr. Speaker, our resolution once again puts Congress firmly on record against the Laogai prison labor system, and it demands that the Chinese open up their prisons and work camps to international inspectors. Our resolu-

tion also calls on the United States to aggressively implement laws prohibiting the importation of forced labor products.

Mr. Speaker, the existence of the Soviet Gulag is now acknowledged as one of the darkest chapters of modern Russian history. When the history of Communist rule in China will be written, maybe 50 years from now, China's Laogai prison labor system will undoubtedly be treated as a tragic and despicable act perpetrated by the Chinese leadership upon the people of China.

Mr. Speaker, I urge all of my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

I thank my good friend the gentleman from California (Mr. LANTOS) for his very eloquent statement. This is an issue that very few Americans, very few lawmakers are really aware of, and it is about time the gross cruelty of the Laogai become much more well-known and action needs to be taken.

Mr. WOLF. Mr. Speaker, I would like to thank Chairman HYDE and Ranking Member LANTOS for expediting the consideration of H. Con. Res. 294, which condemns the Laogai prison system in China. I would also like to thank the 44 cosponsors of this resolution.

This system of over 1,000 prisons, camps and mental institutions serves as one of the Chinese Communist Party's main tools of political and religious repression. Chinese citizens held in these prisons have no right to due process, no trial, and are often arrested because of their political or religious views. Thousands of pro-democracy activists, Internet dissidents, labor activists, and religious and spiritual believers, including Han Chinese, Tibetans, Uyghurs, Mongolians, and "house church" Christians are languishing in the Laogai today.

The conditions in the Laogai prisons are abysmal. The system is based on a philosophy of reform through labor. Prisoners are forced to work extremely long hours in shocking conditions that often result in serious injury and even death.

In direct violation of several international treaties of which China is part, the Laogai prisoners are used as free labor to generate products sold on the international market. Next time you buy a product made in China, know that it may have been made by a Laogai prisoner in slave-like conditions.

Even more horrifying is the regular organ harvesting conducted in the prisons. Last week the deputy health minister of China even admitted to this horrific practice. Thousands of foreign patients and Chinese citizens receive organs harvested from Laogai prisoners. Can you imagine receiving an organ cut from someone arrested and killed because of their religious faith?

The Laogai prisons are truly modern day gulags.

I especially want to thank Harry Wu for his work in raising awareness about the Laogai system. Harry knows the system all too well, after spending 19 years behind bars in the Laogai after he was arrested because of his

political beliefs. Harry has been courageous and relentless in his advocacy for human rights in China.

I am hopeful that this resolution will bring light to this abysmal system and urge a unanimous vote in support.

Mr. SMITH of New Jersey. Mr. Speaker, I am attaching an exchange of letters between Chairman HYDE and Chairman THOMAS concerning H. Con. Res. 294 "Calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government" for insertion into the CONGRESSIONAL RECORD.

COMMITTEE ON WAYS AND MEANS,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, December 13, 2005.

Hon. HENRY J. HYDE,  
Chairman, Committee on International Relations, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing in regard to H. Con. Res. 294, which is scheduled for floor consideration on Wednesday, December 14, 2005. The second clause of the resolution relates to the use of prison labor in China.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning imports. The second resolved clause calls on the Government of the United States to fully implement its laws prohibiting the importation of products made in Chinese forced labor camps, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this resolution for floor consideration, the Committee will forgo action on this resolution. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H. Con. Res. 294, and would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,  
Chairman.

COMMITTEE ON INTERNATIONAL RELATIONS, HOUSE OF REPRESENTATIVES,

Washington, DC, December 13, 2005.

Hon. WILLIAM M. THOMAS,  
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H. Con. Res. 294, calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government. The bill has been referred to the Committee on International Relations.

I concur with your statement concerning the jurisdiction of the Ways and Means Committee over the second resolved clause of the resolution, which refers to United States laws prohibiting the importation of products made in Chinese forced labor camps. I appreciate your willingness to forgo consideration of the bill.

I also understand that this action on your part does not in any way prejudice your Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation. I will insert this exchange of letters into the Congressional Record during the debate of this bill.

With best wishes,  
Sincerely,

HENRY J. HYDE,  
*Chairman.*

Mr. SMITH of New Jersey. Mr. Speaker, I have no further requests for time, and I yield back the balance of our time.

The SPEAKER pro tempore (Mr. REICHERT). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 294, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SMITH of New Jersey. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

#### GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 294, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

#### REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2830, PENSION PROTECTION ACT OF 2005

Mr. HASTINGS of Washington, from the Committee on Rules, submitted a privileged report (Rept. No. 109-346) on the resolution (H. Res. 602) providing for consideration of the bill (H.R. 2830) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes, which was referred to the House Calendar and ordered to be printed.

#### HONORING THE VICTIMS OF THE CAMBODIAN GENOCIDE

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 238) honoring the victims of the Cambodian genocide that took place from April 1975 to January 1979, as amended.

The Clerk read as follows:

H. CON. RES. 238

Whereas beginning in April 1975, Pol Pot led the Communist guerilla group, the Khmer Rouge, in a large-scale insurgency in Cambodia that forcibly removed Cambodians

from their homes and into labor camps in an attempt to restructure Khmer society;

Whereas traditional Khmer culture and society were systematically destroyed, including the destruction of temples, schools, hospitals, homes, and historic buildings;

Whereas the Khmer Rouge separated and destroyed families and punished and killed innocent civilians, including women, children, doctors, nurses, clergy, teachers, business owners, intellectuals and artisans;

Whereas more than 1.7 million Cambodians, or approximately 21 percent of the population, were killed in one of the worst atrocities of the last century;

Whereas many people were executed simply for being educated, wealthy, or even for wearing glasses as they were seen as bourgeois or contaminated with Western influence;

Whereas after the Khmer Rouge regime was overthrown in 1979, thousands of Cambodians fled on foot to refugee camps in Thailand and many refugees were processed again in other camps in the Philippines and Indonesia;

Whereas from these refugee camps approximately 145,149 Cambodians made their way to the United States, with the majority arriving in the early 1980s and settling in communities across the United States;

Whereas despite the tremendous loss of family members, homes, and even parts of their heritage during the Khmer Rouge regime, Cambodians have shown courage and enormous resiliency;

Whereas, according to United States Census Bureau figures, there are approximately 206,053 Cambodians currently living in the United States;

Whereas the new generation of Cambodian-Americans continues to contribute to all aspects of American society as writers, doctors, professors, and community leaders; and

Whereas the United Nations has taken affirmative steps to establish an international criminal tribunal to bring to justice the perpetrators of the Cambodian genocide: Now, therefore, be it

*Resolved by the House of Representatives (the Senate concurring), That Congress—*

(1) honors the victims of the genocide in Cambodia that took place beginning in April 1975 and ending in January 1979; and

(2) welcomes the establishment of an international criminal tribunal to bring to justice the perpetrators of the Cambodian genocide, with the hope that proceedings of the tribunal will meet international standards of justice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Thirty years ago, as we all know, Cambodia was thrust into 4-years of hellish chaos that claimed the lives of one-fifth of that country's population. Pol Pot and the Khmer Rouge regime attempted a radical restructuring of Cambodia, systematically destroying traditional Khmer society, forcibly relocating large portions of the population, and purging those whom it regarded as bourgeois, or culturally contaminated. Their movement, which claimed to be a Communist effort to create a classless, utopian state, was, in fact, a genocide.

By the time it ended, 1.7 million Cambodians were dead. It stands as one of the worst crimes of the 20th century and a shocking example of what becomes possible when the dignity of the human person is subordinated to political ideology.

Faced with the terror of the Khmer Rouge, many thousands of Cambodians did what you and I would do in that situation. They and their families fled their homeland, becoming refugees. Of those numbers, more than 145,000 resettled in the U.S. where they have contributed to the strength of communities throughout our Nation. We are proud of our Cambodian American population, which has demonstrated such resilience and industry.

We also are hopeful that there may be yet justice and accountability for the Cambodian genocide. We welcome the steps that the U.N. has taken toward establishing an international criminal tribunal for that purpose. Although that body has yet to become operational, we hope that, when it does, its proceedings will be substantive, transparent and credible.

In light of its history, I am proud that this body is taking up H. Con. Res. 238 which honors the victims of the genocide in Cambodia and welcomes the prospect of justice for that great crime. I want to especially thank the gentlewoman from California (Ms. MILLENDER-MCDONALD) for introducing this resolution and urge its unanimous adoption.

Mr. Speaker, I reserve the balance of our time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

(Mr. LANTOS asked and was given permission to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, I would first like to commend my good friend and colleague, JUANITA MILLENDER-MCDONALD, for introducing this important resolution. Her leadership on behalf of all Cambodian-Americans is greatly appreciated.

Mr. Speaker, 30 years ago, one of the saddest chapters in world history began to unfold in the nation of Cambodia. With the victory of the Khmer Rouge, millions of men, women and children were forced from their homes into the countryside and prison labor camps throughout the nation.

They were told they faced "reeducation." Instead they suffered crimes against humanity that became a genocide.

Entire categories of Cambodians were immediately marked for torture and execution by the Khmer Rouge—educated Cambodians, wealthy Cambodians, individuals associated with the previous government, even Cambodians who wore glasses.

Thousands of innocent people were herded into Phnom Penh's infamous S-21 prison. Once behind bars, they were tortured by the Khmer Rouge until they confessed to their so-called crimes. After the confessions were duly recorded and the photos of the doomed were taken and filed away, the imprisoned individuals were summarily executed.

When the killing was over 4 years later, over 1.7 million Cambodians were dead. Many