

# **An Arsenal of Human Rights**

## **Remarks to the Congressional-Executive Commission on China**

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I was an early advocate of a Congressional Executive Commission to monitor China's human rights situation, speaking in favor of it to Congress' Helsinki Commission in November 1995, so naturally I am more than a little pleased to appear before you today. To examine China's compliance with international and bilateral human rights treaties and agreements and to make recommendations for our country's human rights policy towards the People's Republic of China, President Bush and the Congressional leadership have assembled a knowledgeable and diverse group of commissioners, all of whom have taken an active interest in US-China relations, and all of whom have strong beliefs on how best to pursue our national interests. I am grateful to Senator Baucus and Congressman Bereuter for the strong support they have given me and my work these past several years. The commission is guided by two fair-minded men of high integrity, and I have no doubt that this body will, under their leadership, play an important role in identifying effective ways to address the serious situation we confront in China today.

Several members of the commission, including Senator Brownback and Representatives Leach and Pitts - have written letters to the Chinese government backing my efforts to obtain information on, and the early release of, prisoners whose cases I've taken on. I am especially grateful to Congressman Pitts for his help pressing the Chinese government on the case of Bishop Su Zhimin. I have benefited from Congresswoman Pelosi's advice and concern for my work over many years. I am fortunate to have someone like Congresswoman Pelosi, a recognized leader in the effort to promote human rights in China, representing the district where I live and where my foundation is based.

### **Prisoner Releases and Human Rights Diplomacy**

I am especially proud to be testifying before a body that includes as one of its distinguished members Congressman Frank Wolf, with whom I was honored as a recipient of the Eleanor Roosevelt Award for Human Rights this past December. Congressman Wolf and I have not always agreed on what policy should be adopted to deal with violations of human rights in China, but on one thing I believe we are of one mind. In formulating and implementing our human rights policy towards China, the United States must place a very high priority - I would say the highest priority -- on securing the release from prison of individuals detained for the non-violent expression of their political and religious beliefs, and until the day of their release, the most humane treatment that the prison system affords.

This position is not, I'm sorry to say, popular with members of the American business community in China, nor is it embraced by some who are active in the field of human rights. Some activists call working for the release of prisoners "humanitarian work" and distinguish it from "human rights work." Getting a few people out of prisons is fine for those released and their family and friends, but such a result does nothing to change the system that put them in prison in the first place, critics say. One prominent human rights activist has even said that, because the Chinese government is sometimes able to manipulate the process of negotiation and release to score public relations points, working to free prisoners actually strengthens the regime's ability to

arrest other dissidents. Pressuring the Chinese government is often compared to the odious business of "hostage politics," and those who engage in this work are sometimes referred to as "hostage negotiators."

Far from being a side show, working to secure the release of political and religious detainees is the highest calling of human rights activism. I believe that the most important thing the United States can do to bring about systemic change in China is to work for the release of people imprisoned for their political and religious beliefs, people who are making great sacrifices to bring respect for human rights and rule of law to China.

Let me state the obvious: Outsiders, with the exception of a few committed and disciplined exiles, will not be the principal catalysts for change in China. The agents of change will be found among the people of China. They are democracy advocates like Xu Wenli, labor organizers like Yao Fuxin, entrepreneurs like Rebiya Kadeer, and brave clergy like Bishop Su Zhimin and his Auxiliary Bishop An Shuxin. They are scholars like Tohti Tunyaz and journalists like Jiang Weiping who dare to expose corruption and otherwise speak truth to power. To them belong the pain and glory of bringing change to China, but they can do little to reform the country if they are locked in prison cells together with tough and hardened criminals.

It was international pressure that saved the lives of Nelson Mandela, Kim Daejong, Lech Walesa and many others who eventually brought democracy and social justice to their countries. Yesterday's imprisoned dissident is today's leader of a democratic and free society. Does anyone believe that by passing another resolution or by running a few more seminars to train judges or by holding another legal exchange in which the sides do not discuss actual violations that more can be accomplished than what is accomplished by freeing from prison those who know the country best, who have suffered for their beliefs and who have thought long and hard of ways to bring about a better China?

When a government is forced to release its grip on a prized prisoner, a current of electricity that is hope runs through the community of those who yearn for freedom and justice. And that hope inspires and emboldens others who know that, whatever happens, they will not be forgotten. Striking workers, like those in Liaoyang and Daqing, make securing the release of their leaders a principal goal of their movements. Should we do less?

A man or woman of faith who walks out of the dungeon that once held St. Paul is living proof of God's saving grace. I am firmly of the opinion that the explosion of religiosity in China in the mid-to-late 1990s was at least in part brought about by the successful campaigns to win the release of Catholic clergy and house church preachers in 1992 and 1993. I have seen photographs of the triumphal return of jailed bishops to their villages. On the faces of the faithful one sees expressions of rapture, the awe of being in the presence of living saints. Many of these clergy were sent back to jail, some within months of their release, but in the time they enjoyed freedom they said Masses, administered the sacraments including the ordination of priests, established seminaries and sent out of China testimonies on which we rely for a picture of what is going on in that great but wounded country.

Prisoners are first and foremost human beings. Prisoners have rights - the right to due process, to medical care, to regular family visits, to be free from physical and mental abuse - and getting the Chinese government to recognize and better protect these rights contributes to greater respect for rule of law and a greater "rights consciousness" which must gain hold if a better rights environment is to be achieved. Xi Yang was a Hong Kong journalist imprisoned for 12 years for leaking state secrets. As a critically important part of the campaign to win his release, we established that a prisoner's family has a right to a copy of the verdict, even in cases involving state secrets. It was while working on the Ngawang Choephel release that we uncovered the 1990 regulations on medical parole that allow for the release of prisoners who have contracted "serious and chronic" illnesses in prison, and who have served one-third of their terms. Chinese officials with whom I

work now freely make reference to the "one-third rule," the application of which may well lead to more releases in the future.

One of the most popular books for sale in Chinese legal bookstores these days is a thin volume entitled "Yi An Shuo Fa," which translates as "When speaking of the law, look at cases." Although the Chinese system does not recognize the binding nature of precedent, it is clear to me that precedent established in one case can in fact play a role in the resolution of other cases. When we uncover ways to help one prisoner win freedom, opportunities arise to use what we learn to help others win freedom. Doing humanitarian work cannot be separated from doing human rights work. They are both about building respect for the rule of law.

By focusing our efforts and resources on individual cases, the United States sends a clear message about the value of the individual, and the priority we place on the rights of the individual. As I am fond of telling my Chinese interlocutors, you can't talk about human rights without talking about human beings. The problem with our human rights diplomacy in recent years is not that we've been too focused on winning prisoner releases but that we haven't been focused enough. We shouldn't be getting out of the "prisoner list business," as one senior American diplomat once suggested to me, but rather investing more time and resources in order to achieve more and better results.

### **Prisoner Releases: Assessing China's Motivations**

Before reviewing recent developments in the effort to secure the release and better treatment of political and religious detainees, I'd like to spend a few moments examining the motivations of the Chinese government in making prisoner releases. This is a subject I am qualified to speak about. Hardly a week passes that I'm not engaged in several conversations about prisoners with officials of the Chinese government.

It is often said that the Chinese government makes releases of high-profile prisoners to score public relations points and otherwise burnish its image. This was decidedly the case in the early 1990s, when Beijing sought to influence such things as the debate on MFN or the decision on the 2000 Olympics. It is not the case today, however. Officials with whom I work do not as a rule want publicity.

There are at least two reasons for this. First, there is little evidence to suggest that making prisoner releases has in fact improved China's image in the United States. Soundings taken by Gallup indicate that China's "favorable versus unfavorable" ratings have shown little change for several years, and when ups or downs take place, they seem to take place for reasons that have little to do with the arrest or release of individual dissidents (e.g. the downing of the EP3 surveillance plane or the accidental bombing of the Chinese embassy in Belgrade). Roughly 45 percent of the American people have a favorable impression of China, roughly 45 percent have an unfavorable impression, and 10 percent are undecided. When asked by Gallup if the events of September 11 had changed their view of the crackdown by the Chinese government on Uygurs in Xinjiang, the great majority of Americans replied that their opinions had not changed, and that they disapproved of the crackdown. Every poll on the subject confirms that Americans have a poor opinion of the Chinese government insofar as its record on human rights is concerned, and a prisoner release here or there hasn't changed that opinion.

The second reason why Chinese officials don't want publicity about prisoner releases is that many senior members of the party and government are opposed to setting dissidents free. They view the release of a high-profile opponent of the regime as a sign of weakness and even of humiliation. They oppose releases as craven concessions to foreign powers. Sometimes, a prisoner release will run counter to an "official line" that the government is trying to take. In January 2001, I announced the release of Yu Zhijian, a Hunan teacher, sentenced to life in prison for throwing ink on Chairman Mao's portrait in May 1989, on whose case I had worked for many years. Around the time I made the announcement, the Chinese government was reacting to the publication of *The Tiananmen Papers* by stressing that the verdict on the June 4 demonstrations would

not be changed. How, foreign journalists asked at a regular Ministry of Foreign Affairs briefing, could the regime on the one hand say that the verdict would not be changed and on the other release one of the best known dissidents sentenced to prison for his role in the protests? Officials with whom I had worked on the Yu case were criticized, and provision of prisoner information to me was suspended for nearly six months.

While the Chinese government has for the most part given up using prisoner releases to improve its image with the general public, it will sometimes release prisoners as gestures aimed at foreign leaders and legislators, often in the run-up to a visit to China by a foreign politician or a visit to a foreign country by a Chinese leader. It also occasionally happens that prisoner releases are made to hint at a possible change in domestic or foreign policy. Thus, prior to negotiations with the Vatican on the normalization of relations in 1993, a number of clerics were set free to create a better atmosphere for the talks. I am watching carefully to see if recent developments regarding Tibetan prisoners might presage a change of policy towards Tibet. Thus far, I don't see it.

Sometimes releases take place in response to a specific request for information from an organization or individual with "standing" in the eyes of the Chinese government. China is a member of the International Labor Organization, and is required to respond to complaints filed by the ILO's Committee on Freedom of Association. Information on parole and sentence reductions for Chinese labor leaders suggests that the Chinese authorities released them and reduced the sentences of others shortly before replying to complaints made by the CFA.

Years of hard work building credibility and trust have resulted in my having "standing" with the Chinese government to inquire about political and religious detainees. I am determined to use this position to help as many prisoners as possible, for as long as I am able to do so. I regret that leaders of the American business community, men and women of considerable power and influence in China, have thus far refused to use their standing with the Chinese government to press for the release of those jailed for exercising the rights of free speech and association. These are rights that business people themselves take for granted, and on which the success of their own businesses in large measure depend.

It is true that, if the Chinese government is worried about losing a trade privilege or if it fears losing a vote in the United Nations on its human rights record, it will seek to influence the outcome by making gestures like releasing prisoners or signing human rights treaties. But if it is confident of victory, the opposite is the case. Rather than making gestures, Beijing will hold off making prisoner releases and will instead act defiantly, thereby demonstrating to its people that it is standing up to foreign pressure.

Releases will be made if they help the government achieve a strategic objective. Even before the September 11 attack, Beijing had made a strategic decision to work for better relations with the United States. The events of September 11 greatly reinforced that decision. The Chinese leadership knows very well that gestures in the area of human rights will be welcomed by leaders in Washington, including Members of Congress. The decision to improve relations with the United States - a decision that has manifested itself in many ways - is the principal reason why the Chinese government has carried out releases in recent months (e.g. the release on medical parole of Li Shaomin, Gao Zhan, Wu Jianmin, Ngawang Choephel and, most recently, Jigme Sangpo). We need to take advantage of the Chinese government's desire to build better relations with the United States by pressing Beijing to release more prisoners, and to reduce the sentences or otherwise improve treatment of those still held. The time for action is now.

This last point needs to be stressed. What my interlocutors call "cooperation in the area of human rights" is heavily dependent on the state of US-China relations. When relations are good or improving, Beijing is more likely to release prisoners than when relations are bad or deteriorating. My own work has been greatly affected over the years by disputes between Washington and Beijing over the perennial issue of Taiwan.

## **Recent Developments**

The Bush Administration is engaged in one of the most intensive efforts ever mounted by an American administration to win the release of political and religious detainees in China. Assistant Secretary of State Lorne Craner has made it clear to his Chinese counterparts that he is not interested in participating in a "talk shop," but that he expects concrete results from the official human rights dialogue. By results he means plentiful and accurate information on cases, and the release and better treatment of prisoners. In October, he obtained from his Chinese counterparts detailed information on 68 of 74 prisoners about whom he had submitted enquiries, and the unprecedented Chinese response has provided us with a roadmap for working on a number of important cases. It is no coincidence that the first name on Mr. Craner's July list was that of Ngawang Choephel, who was released and flown to the United States on January 20. In a decisive break with tradition, Ambassador Clark Randt, encouraged by Congressman Wolf, publicly called for the release of specific individuals, including Bishop SuZhimin, Xu Wenli, Liu Yaping, Li Guangxiang and Jigme Sangpo during a speech to a Hong Kong audience on January 21. It is no coincidence that the last two prisoners - a Bible "smuggler" for whom President Bush showed special concern and China's longest serving counterrevolutionary -- were set free in the weeks following the Ambassador's speech.

President Bush, on his visits to Shanghai and Beijing, has called for more religious freedom, and as part of that call he has urged the Chinese government to release leaders of unauthorized religious groups. The administration has breathed life into the proposal, made when President Clinton visited Beijing in July 1998, that China review the sentences and release from prison people serving sentences for counterrevolution. According to local statistics obtained during my visit to China a month ago, I estimate that there are still more than 600 counterrevolutionaries in China's prisons. They include people like Zhang Chengjian, who has served more than 18 years for attempting to form a political party, Sun Xiongying, who gave pro-democracy speeches and defaced a bust of Mao during the June 1989 demonstrations, Ngawang Oezer, sentenced in 1989 to 19 years in prison for translating and distributing the Universal Declaration of Human Rights in Tibetan, Liu Jingsheng, who has served more than 10 years for trying to establish an independent trade union, and Han Chunsheng, sentenced in 1996 to eight years in prison for writing letters to the Voice of America.

Members of the Commission, including Senators, Congressmen and Congresswomen, and representatives of the Administration, have been of great help to me and my foundation as we pursue our unofficial dialogue with the Chinese government on prisoners. We have been focused on gathering information on lesser known prisoners, some of whom - like Li Jingdong, a recently released democracy activist in Fujian - we've found through our research into official Chinese publications. On my last trip to Beijing, I was given detailed information on the fates of five Tibetan farmers sentenced in 1992 to long terms for counterrevolutionary propaganda and incitement. Reflecting the generally harsher treatment meted out to Tibetan prisoners, three of the five are still in prison, serving their original sentences. (One of the prisoners was released on medical parole, and one died while in prison.) Their names will start appearing with more frequency on lists submitted to Chinese officials by the American government, and by the governments of other countries with whom we have developed cooperative relationships.

## **The Prisoner Information Registry**

The Omnibus Appropriation Act of 1999 mandated the establishment by the State Department of a Registry of Information on Chinese Prisoners. Little was done to create this registry until Assistant Secretary Craner, who is a valued member of this commission, took up his position. He has made the creation of the registry a matter of top priority, and I am honored and pleased to have assisted him on this project. Two days ago, I presented to Mr. Craner the first fruits of our labor - two databases that together contain more than 6,000 names of individuals, with supporting details, believed to have been detained for political or religious reasons. (We have included in the database the names of detainees we know or believe to have been released, but who likely remain under surveillance or endure other kinds of restrictions.) One database contains the names of

more than 4,000 detainees about whom non-governmental organizations have obtained information from a variety of unofficial sources. The other database contains the names of more than 2,000 detainees whose existence has been revealed in officially authorized Chinese publications.

I am especially proud of the work my colleagues at Dui Hua have done in uncovering the names of hitherto unknown detainees. We have surveyed thousands of documents, amassing names of detainees, statistics on political crime, and laws and regulations that govern the treatment of prisoners, unauthorized religious groups and national minorities. About 80 percent of the names that we've found in nearly three years of archival work are of detainees whose names do not appear in any governmental or non-governmental database outside of China. We have submitted roughly 450 of these names to the Chinese government, and asked for its help in finding out their present circumstances.

I know that Assistant Secretary Craner is eager to provide to this commission the database that Dui Hua has created and which Dui Hua will be continuously updating and improving. One of the jobs of this commission is the establishment of its own prisoner registry, and for this task the State Department's Registry will be of considerable value.

Prisoner registries, accessible on-line, will be valuable tools in the effort to secure the release of people detained for the expression of their political and religious beliefs. It is now possible to generate a multitude of prisoner lists containing the most current information, each for a specific event - a trip to China by a Congressional delegation (separate lists can be generated for each city visited), the participation of an American delegation in an international human rights forum, the preparation of reports on human rights conditions in China, the visit of a senior Chinese leader to the United States. Lists of prisoners eligible for medical parole, or good behavior parole, can be compiled. Lists of imprisoned labor leaders, house church pastors and Catholic priests, journalists and scholars can be generated and handed over by American groups meeting with their Chinese counterparts.

In another time, and for another purpose, our country was an "arsenal of democracy." This commission, by marshalling resources and fashioning tools made possible by advances in technology, and by undertaking forceful advocacy on behalf of political and religious detainees, can become an "arsenal of human rights," a vital source of support for those inside and outside China working to bring about respect for human rights and rule of law. The Dui Hua Foundation stands ready to help this commission in fulfilling its promise.

Thank you for inviting me to participate in this important hearing.