

**THE STATUS OF HUMAN RIGHTS IN CHINA:
THE U.N. UNIVERSAL PERIODIC REVIEW**

HEARING

BEFORE THE

TOM LANTOS HUMAN RIGHTS COMMISSION

HOUSE OF REPRESENTATIVES

ONE HUNDRED AND ELEVENTH CONGRESS

FIRST SESSION

—————
JANUARY 27, 2009

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TOM LANTOS HUMAN RIGHTS COMMISSION

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TUESDAY, JANUARY 27, 2009

HOUSE OF REPRESENTATIVES,
TOM LANTOS HUMAN RIGHTS COMMISSION,
Washington, D.C.

The commission met, pursuant to call, at 10:00 a.m., in Room B 318, Rayburn House Office Building, Hon. James P. McGovern [chairman of the commission] presiding.

Chairman McGOVERN. Good morning, everybody. I am Congressman Jim McGovern, and I want to thank my colleague and fellow co-chair, Congressman Frank Wolf, and the staff of the Tom Lantos Human Rights Commission for bringing together today's credible panel of experts to talk about the current status of human rights in China. I regret that I also need to be at a Budget Committee hearing dealing with the worsening state of the American economy. So I am going to have to leave here a little bit early. But my hope is that my co-chair and others will be here before I leave.

So I want to take a couple of minutes to make a brief statement and pose a couple of questions in advance of the panel's presentations.

The last in depth look at China's human rights record by the Human Rights Commission happened during the period leading up to and during the summer Olympics. A great deal has happened inside China since then, and I wish it were good news. Unfortunately, with a very few exceptions it is not.

Last summer in the period leading up to the Olympics the Chinese Government severely tightened restrictions on human rights defenders, disrupted and cracked down on activities by civil society, created new obstacles in the ability to carry on protests or to file complaints by ordinary Chinese citizens, and increased the security controls on key regions and minorities, in particular exercising extreme control over Tibetans and Uyghurs.

During the Olympics I was especially engaged on the status of leading human rights defender Hu Jia and his wife Zeng Jinyan and their infant daughter. In August 2007, Hu was one of the 42 Chinese intellectuals and activists who co-signed an open letter calling for greater attention to human rights in China. In

September 2007, Hu and lawyer Teng Biao published another open letter, quote, The Real China and the Olympics. It was entitled Assessing Specific Human Rights Concerns Inside China Within the Context of the Beijing Games and China's Promises to the International Community and to the Chinese People.

On December 27, 2007, Hu was detained prior to being formally arrested on January 30, 2008. He was sentenced on April 3, 2008, to 3 1/2 years in prison after being found guilty of, quote, inciting subversion of state power, end quote. His wife Zeng Jinyan was under constant surveillance at her Beijing house at the start of the Olympic Games, but she had remained in touch with some Chinese activists and some reporters.

On the second day of the games she and her infant daughter disappeared. No more communication, no word of their whereabouts. I immediately called the U.S. Embassy in Beijing asking that they inquire about her whereabouts and well-being, which I am happy to report that they did. But the Chinese authorities did not respond to U.S. Ambassador Randt's inquiries any more than they responded to mine. A few days later at its daily press conference the U.S. Embassy spokesperson raised Zeng's disappearance along with several other cases, noting that the Chinese authorities had not been forthcoming with any information. Soon afterwards we were informed that she and her daughter had been held throughout the Olympics at a hotel in Dalian in Liaoning Province to prevent her from having any contact with or speaking to journalists in China covering the games.

It is my understanding that Hu Jia has since been moved to a prison closer to Beijing so that Zeng may visit him more often and monitor his health. I want to thank Ambassador Randt and the staff of our embassy in Beijing for being so responsive to our calls during that period, and I hope our panelists can shed some light on the current status of Hu Jia and his family.

More recently, on December 10th, on the 60th anniversary of the Universal Declaration of Human Rights over 300 Chinese intellectuals and human rights defenders released a statement calling for more political reform and democracy in China. The group called their statement Charter '08, a reference to Charter '77, a document issued by Czech political dissidents during the Cold War. The Chinese Government responded to the document which has now been signed by thousands of people through the Internet by detaining and harassing the key authors, including Liu Xiaobo. Congressman Frank Wolf and I immediately sent a letter to the Chinese authorities in support of Liu and of the Charter '08 members.

I would appreciate our panelists describing the importance of the Charter '08 document with respect to China's human rights situation and what suggestions you might have about how the U.S. and the international community might monitor or respond to the proposed rights and reforms.

Again, I very much regret that I am not going to be able to stay for the entire

hearing, but I want you to know that not only members of this commission, but I think all members of the United States Congress, Democrats and Republicans alike, are very concerned about the deteriorating human rights situation in China. And I think this new administration that has now been sworn into office, President Obama and Senator Clinton, I think have a particular interest in the human rights situation in China.

This issue is not going away. We will be doing extensive hearings on the deteriorating human rights situation. We are going to raise this issue time and time and time again, and we want to make that clear at the outset of this hearing.

I am pleased to welcome one of our co-chairs, Congresswoman Donna Edwards, from Maryland. And I will yield to her to make any opening statements she would like.

Ms. EDWARDS. Thank you, Mr. Chairman. I don't have a formal opening statement. I will say I am pleased to be able to join you today and to learn more of the what the chairman has described as the deteriorating condition of human rights in China. I am especially interested in labor rights and the condition of women throughout China, and deeply concerned about the high rate of suicide among women in China, forced labor conditions, and the inability to organize in factories where a lot of U.S. products are made.

And so I will be interested to hear from our witnesses today. And I feel as Mr. McGovern does, that we have an administration in place today in which we can expect, I think, an increased concern about human rights in China as well as around the world, and I look forward to your testimony.

Thank you.

Chairman McGOVERN. Thank you very much. I would like to yield to our other co-chair, Congressman Ellison.

Mr. ELLISON. Good morning. Thank you, Mr. Chairman and thank everyone for coming. I would like to also reiterate my commitment to the work of the Tom Lantos Human Rights Commission. That work will focus on human rights generally and globally, but today we are here to talk about human rights in China, which I think is an important issue facing our world today.

I think it is important for the world to know that, as we have an increasingly interconnected world economy, we have to have an interconnection of human rights and respect for universal human rights in our world today. And so I think it is important for us and the United States to understand that all relationships have to be rooted in the respect for human rights. That includes economic, political, and cultural relationships.

And so today I look forward to hearing from all of our witnesses today who can talk to us about religious freedom, the absence thereof, and political freedom and workers' rights and other critical issues. And I do thank you for the work that you have done and look forward to hearing what you have to share with us today.

Thank you.

Chairman McGOVERN. Thank you very much. And before I introduce the witnesses let me also announce that the Tom Lantos Human Rights Commission has formally become a commission. It used to be a caucus, but it is a commission that has been mandated by the United States Congress at the request of Speaker Nancy Pelosi.

The Speaker's vision is that human rights should take a higher priority in the Congress, that human rights should be discussed. When we talk about economic and military and foreign assistance and trade policy, human rights needs to be part of our discussion on all of our international policies, and even on our domestic policies; that if the United States is going to stand for anything it needs to stand out loud and four square for human rights.

I say that in advance so that people understand that this issue is going to be more central in this Congress, and I also say that because I admire all of the people who are here as panelists who have been working on human rights issues.

So I would like to introduce the panel. First, Felice Gaer from the Jacob Blaustein Institute; Bhuchung Tsering from the International Campaign for Tibet; Rebiya Kadeer from the Uyghur American Association; T. Kumar from Amnesty International; Harry Wu from the Laogai Research Foundation; and Lucie Morillon with Reporters Without Borders.

STATEMENTS OF FELICE GAER, JACOB BLAUSTEIN INSTITUTE;
BHUCHUNG TSERING, INTERNATIONAL CAMPAIGN FOR TIBET; REBIYA
KADEER, UYGHUR AMERICAN ASSOCIATION; T. KUMAR, AMNESTY
INTERNATIONAL; HARRY WU, LAOGAI RESEARCH FOUNDATION; AND
LUCIE MORILLON, REPORTERS WITHOUT BORDERS

Chairman McGOVERN. So at this point I would like to yield the floor to Felice Gaer. We are happy to have you here. We appreciate all of your incredible work on behalf of human rights.

STATEMENT OF FELICE GAER

Ms. GAER. Thank you very much, Congressman. And I would like to return the compliment to you and all the members of the new commission. And I particularly want to express appreciation for the important affirmation you made of the intention to see that human rights issues are part of all of the discussions on all of the foreign policy issues that we engage in.

It is ironic--I am Felice Gaer. I direct the Jacob Blaustein Institute for Advancement of Human Rights at the American Jewish Committee--it is ironic that today is January 27th, it is the International Holocaust Remembrance Day being celebrated as such--commemorated as such, I should say at the United Nations. This Commission, named after Tom Lantos, the only Holocaust survivor who served in the Congress, couldn't have this hearing on a more important day. The Holocaust of course was unique, but its lessons are universal.

The universal periodic review process at the United Nations Human Rights Council in Geneva is a new procedure that was created when the new Human Rights Council was created to replace the discredited Commission on Human Rights. The process itself is an attempt to bring a consolidation of all U.N. human rights activities and to bring some coherence to the process in reviewing individual countries. It was modeled on a peer review process, but many of us who have observed it think that it might better be described as peer review minus. In Geneva the process has been manipulated so by some governments that instead of calling UPR Universal Periodic Review, it is often being called Universal Praising Review. Praise has a role in advancing human rights, but so does scrutiny. And that is what we hope this process will provide.

Many of the interlocutors in the United Nations and the human rights movement felt that this Universal Periodic Review procedure by itself would save the entire effort to create a new Human Rights Council, because in the course of 4 years it will review every single member state of the United Nations, 48 states, each year, during each of the 4 years, including all the members of the Human Rights Council.

Now, having watched for years as governments fought to become members and get elected to the council in order to protect themselves, the idea that there is no protection from scrutiny is a very important one. This will be the first substantive review of China in an intergovernmental United Nations setting in years. It will be the first one in which questions and answers will be asked by governments. There are expert bodies at the U.N., such as the treaty bodies. I have the honor to serve on the Committee Against Torture at the United Nations as the U.S. expert, and we had a review of China last November. But this will be the first time that China comes before an intergovernmental body where states will be asking the questions. They have 3 hours on February 9th, beginning at 9:00 a.m., in which to carry out this review.

The United Nations has received a report from the government of China and has prepared two summaries of reports. A summary of all of the work of all the U.N. special procedures, rapporteurs, treaty bodies, committees and visitors, and a summary of materials submitted by 46 NGOs, 46 nongovernmental organizations, whose reports appear on the United Nations Web site and are available all over the world for people to consult and see. This is a huge development in the U.N. for this material to be available, for these reviews to have been undertaken and for a summary of it to have been created.

We can argue, and I know some of the witnesses will, that the summaries which are limited by the page numbers, like in our own courts, don't cover all the issues and exclude certain issues and the like.

But the U.N. has seen nothing like this before prepared by these groups coming in from the NGOs and being submitted as formal documents. This session is the fourth periodic review session that the U.N. has undertaken. There were three last year, and this is the fourth. This one will include a review of an extraordinary group of countries who are members of the Human Rights Council, including among them a few that are of particular interest to this Commission and to the Congress. I mention in passing they will include a review of Russia, they will include a review of Cuba by the intergovernmental body, they will include a review of Nigeria, Azerbaijan and numerous other countries. So China will not be alone. But it is China we focus on today because of the range of issues that come up there and the unique opportunity this offers us.

The United Nations process involves a procedure whereby the state itself speaks for about half an hour and then governments ask questions. Anywhere from 25 to 60 governments have asked questions in previous Universal Periodic Review procedures that have taken place, 26 for Lichtenstein and 60 for Israel, with the average being somewhere in between. China has played a very visible role in these reviews. China has asked questions at virtually every one of the reviews. It has asked questions that have been, I would say, limp with regard to countries from Asia and countries from Africa and the like.

When it comes to countries like the Netherlands or countries like Finland or the Czech Republic, which is now the Chair of the European Union, the questions have not been so limp. For example, they asked the Dutch to explain why it was that their use of the Internet has harmed freedom of expression in so many ways. They have asked them to explain specifically why they have facilitated pornography, terrorist activity, and incitement of racial and religious hatred by allowing freedom of expression on the Internet. We have a word for this in Yiddish called hutspa. And I think, Mr. Chairman, you might agree with that.

In the case of Finland they asked the Finns what nongovernmental organizations did not only to participate in the writing of a critique of the government of Finland but, more significantly, are they involved in human rights policy, are they involved in public affairs.

I think that these are the kinds of questions that are being asked of Western governments by China. A review of China in the Universal Periodic Review can ask no less back of China, particularly in view of the crackdown and the problems that you describe in your opening remarks, Mr. Chairman.

Now, I mention this because China's role is not only one of participating and asking questions. I must say they have made very few recommendations. The process requires asking questions, making recommendations, and then the government has to either accept or refuse the recommendations. So the government has to speak on each of the recommendations. If it refuses them, it has to say why it refuses it. And that is a matter of record.

China has also been very active in trying to control what materials are presented to the member states, what nongovernmental organizations present information, and have it listed on the Web site, and also to speak with virtually every government that is on the Council and that is likely to speak at the Council to try to encourage them to have discussions in private rather than in public and not to engage in a full and fair review.

I think it is essential for the United States to participate and participate actively. The U.S. participated actively in the first two Universal Periodic Reviews. It was instructed, our personnel were instructed not to participate in the third one in December. And as I understand it, there are no plans for the U.S. to ask questions in any of the periodic reviews in the upcoming session in February. That has to change. The U.S. needs to speak out asking questions. What kinds of questions? Specific questions. Questions about cases, questions about core issues, questions about the very issues that you raised in your opening comments, questions about freedom of expression, religious freedom and the like.

The U.S. also has to speak out by making specific recommendations. Those recommendations get recorded, included in a report, and again, as I said, the government has to accept or reject them.

The U.S. has a third role to play, which is to encourage other states to ask questions and perhaps to coordinate topics that are asked and to reinforce major points in making those questions. I think it is important that the Congress speak to the State Department, which may not have made any decisions yet about how it is going to participate or not in the Human Rights Council. But this is a working group of the Human Rights Council, a working group of the whole; 192 states are permitted to participate in it. As I said earlier, about 60 ask questions. The U.S. has a lead role to play. It was extremely constructive at the beginning of these processes. It has had a unique role in the U.N. on the issues of raising questions about human rights in China. And one would hope, I would hope, that it will continue.

Thank you.

Chairman McGOVERN. Thank you very much, Ms. Gaer. I just also want to announce that two other commission members have arrived. Congressman Joe Pitts is here, and we are happy to have him. He has been a champion for human rights with regard to China for many, many years. And Congresswoman Janice Schakowsky is also here. Mr. Pitts, do you want to have an opening statement?

Mr. PITTS. No, thank you, Mr. Chairman. I just want to thank you for conducting this hearing on human rights in China and say that I am very concerned about the trend of a worsening human rights record in China. In light of recent statements as about the Olympic and post-Olympic crackdown, it is clear that there continues to be severe repression. I want to thank the expert witnesses for coming. I look forward to hearing their testimony.

Thank you.

Chairman McGOVERN. Thank you very much. Congresswoman Schakowsky.

Ms. SCHAKOWSKY. Only to say that I am looking forward to a new era of American foreign policy where there is a roll up your sleeves kind of attitude toward human rights around the world starting with the President of the United States and including all of us in the Congress who have worked on this in a bipartisan way.

And, Mr. Chairman, I appreciate your leadership and glad to see you in this role.

Chairman McGOVERN. And I want to yield to my co-chair, Congressman Frank Wolf, from Virginia who has been the leader on issues of human rights in China and real hero to all of us up here, and yield.

Mr. WOLF. Thanks, Jim. I am glad we are having a hearing. We have a great panel.

I look forward to hearing from them.

Chairman McGOVERN. Thank you. I now would like to ask Bhuchung Tsering from The International Campaign for Tibet to give his testimony. We are happy to have you here, and we appreciate all your work for human rights as well.

STATEMENT OF BHUCHUNG TSERING

Mr. TSERING. Thank you, Mr. Chairman. Thank you for the opportunity to talk about the situation in Tibet in the context of today's discussion on the U.N. Human Rights Council's Universal Periodic Review of China. I would first of all like to congratulate the Commission on its formal establishment. We are particularly pleased that it is named after the late Tom Lantos, who played a pivotal role in promoting the cause of human rights throughout the world during his time in the Congress. It is a fitting tribute to his legacy.

In February, the United Nations Human Rights Council is going to review China's reports on its human rights practices. Ben Sashel Campaign for Tibet is a member of the Tibetan UPR forum, a group coalition of NGOs acting as a Tibetan consultation on the UPR which submitted a report titled "The Human Rights Crisis in Tibet to the U.N. Human Rights Council." I would like to submit the report here for enclosing in the Commission's record.

[The information follows:]

UNIVERSAL PERIODIC REVIEW
FOURTH WORKING GROUP
(5 – 16 February 2009)
People's Republic of China
The Human Rights Crisis in Tibet

This submission on the Human Rights Crisis in Tibet is an initiative of Tibetan UPR Forum, a global coalition of organizations acting as the Tibetan consultation on the UPR. This report notes with that there have been no independent reports of any consultations held in Tibet on the national report of the People's Republic of China (PRC). The only independent information that ordinary Tibetans in Tibet may have received about the Universal Periodic Review mechanism of the Human Rights Council is from external radio broadcasts in Tibetan language by Voice of Tibet, Radio Free Asia and Voice of America.

Introduction

1. As the prospect of China's 1949-50 invasion grew, the Fourteenth Dalai Lama made a series of appeals to the United Nations and its members, requesting intervention on his country's behalf. While resolutions concerning Tibet were adopted by the General Assembly in 1959, 1961 and 1965, Tibet failed to be recognized as an independent country.
2. In his paper, "Is Tibet Entitled to Self-Determination?" , Hong Kong human rights lawyer, Paul Harris said: 'No-one disputes that the Tibetans are a distinct people with their own language and culture, who form a large majority of the population of Tibet. They do not control their own destiny. Tibet is controlled by the Chinese Government by means of military occupation for the benefit of the Chinese state. Tibet is a country under foreign military occupation, and its people are subject to alien subjugation, domination and exploitation within the meaning of the UN Resolutions on Colonial Peoples and on Friendly Relations.'

Nature of Human Rights Violations in Tibet

3. Since 10 March 2008 over 125 demonstrations in more than 60 counties on the Tibetan Plateau have taken place to protest the lack of civil, political, economic, social and cultural rights as a result of

Chinese misrule. Tibetans are unable to fully participate in the political process and decide the rules whereby their society is governed without being subject to politically motivated arrest and detention.

4. The Special Rapporteur on racism has stated that Tibetans in the Tibetan Autonomous Region (TAR) suffer various forms of systematic and institutional discrimination in the fields of employment, health care, education, housing and public representation. On political representation, the Special Rapporteur said that: "Although laws guarantee Tibet self-government, Tibetans' governing power is very restricted and is subject to strict supervision and authorization by the central authority."
5. The Special Rapporteur on Violence against Women has stated that "women in Tibet continue to undergo hardship and are also subjected to gender-specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies and the monitoring of menstrual cycles." In May 2005, the Committee on Economic, Social and Cultural Rights (CESCR) said it was "deeply concerned about reports of forced abortions and forced sterilisations imposed on women, including those belonging to ethnic minority groups, by local officials in the context of the one-child policy, and of the high maternal mortality rate as a result of unsafe abortions."
6. According to a report submitted by Katarina Tomaševski, the Special Rapporteur on the Right to Education, she was "dismayed at the illiteracy rate in Tibet, 39.5 per cent, and asked the Ministry of Education [of the People's Republic of China] whether one reason might be the fact that the literacy test was in Tibetan, while Mandarin is used in political, economic and social life...Otherwise, education is seen as assimilationist and, hence, not compatible with China's human rights obligations."

'Reminiscent of the Cultural Revolution'

7. Tibetans describe the current military crackdown and policies adopted by China towards Tibetans as reminiscent of the Cultural Revolution. Well known Tibetan commentator, Woeser, reported on her blog on April 20: "All the working units in TAR and other Tibetan areas in Gansu, Qinghai, Sichuan and Yunnan provinces, one after another, held the various meetings angrily to condemn the 'Dalai Clique.' Some former Red Guards, the former rebel factions and the form 'activists', who were active during the 'Cultural Revolution' have again picked up the crazy languages prevalent during the 'Cultural Revolution.' They glibed at the Dalai Lama and Tibetans in exile, and some even launched personal attacks against the former. Some cadres who retired with special honors or retired regularly suggested that the authorities should establish Joint Defense organizations among the residents, in reality, these organizations are just like the militia organization which 'turned all the civilians into soldiers' during the 'Cultural Revolution.' In other words, they are plainclothes police."
8. A comprehensive report on the 2008 Tibet Uprising by the International Campaign for Tibet, "Tibet at the Turning Point: The Spring Uprising and China's New Crackdown," said: "While demonstrators in the late 1980s were primarily monks and some nuns, although many protests were joined by laypeople too, unrest since the spring has involved farmers, nomads, university students, school children, laborers, and intellectuals as well as monks and nuns, expressing a unified nationalistic sentiment and a wish for the Dalai Lama to return home."
9. Some of the alarming findings of this report were:
 - The 'disappearance' and detention of hundreds of Tibetans, including monks, nuns and school children, who are treated with extreme brutality in custody;
 - Unarmed peaceful protestors who have been shot dead, or have died following torture in prison or as a result of suicide. It is believed that at least 100 Tibetans were killed in Lhasa and nearby areas during the crackdown from March 14 onwards, while at least 40 Tibetans were shot dead or died as a result of the repression of dissent in other Tibetan areas;
 - More than 125 protests across the Tibetan plateau—the overwhelming majority non-violent;

- Sweeping new measures to purge monasteries of monks and ban worship in the wake of the protests, revealing a systematic new attack on Tibetan Buddhism led by Chinese leader Hu Jintao that is reminiscent of the excesses of the Cultural Revolution.

Arbitrary Detention

10. An analysis by the Congressional Executive Commission on China (CECC) of figures disclosed by Chinese officials since March 10 reveals that over 4,400 Tibetans have been detained or allegedly surrendered in connection with protests which began on 10 March 2008. These figures cover Lhasa in the TAR and Gannan Tibet Autonomous Prefecture in Gansu province, as well as in Ngaba prefecture in Sichuan province, but does not include every Tibetan area of the PRC where protests and detentions have occurred. Over 3,000 Tibetans have reportedly been released, leaving the detention status of over 1,200 Tibetans unknown.
11. On 20 June 2008, Amnesty International urged the Chinese authorities “to provide information about the over 1,000 people detained during the protests last March and called for free access to Tibet by independent observers. The call came as Amnesty International published an update on the situation in Tibet since the outbreak of violence – looking at the continuing violent crackdown against protesters, the situation of those detained, including those reported to have been beaten and deprived of proper health care and adequate food, and the severe censorship facing journalists and Tibetans.

Disappearances

12. The International Campaign for Tibet has reported that “since the first protests in Lhasa and Qinghai on March 10...monasteries have been encircled by armed soldiers, while thousands of Tibetans – farmers, nomads, monks, nuns, students, shopkeepers – have ‘disappeared.’ In Lhasa, people sleep in their clothes, fearful of a knock on the door in the middle of the night. Someone disappeared from almost every Tibetan household in Lhasa in the weeks since March 14, according to one Tibetan source...”
13. “Many Tibetans are being taken to prisons far from their homes, and their families have no idea whether they are alive or dead. Hundreds of Tibetans from Lhasa, including many monks, have been seen being taken out of the city on the new train to Qinghai.”
14. The enforced disappearance of the Panchen Lama, in accordance with the UN Declaration on the Protection of All Persons from Enforced Disappearance, “is a continuous crime,” according to a joint statement by 15 NGO’s delivered to the UN Human Rights Council by the Movement against Racism and for Friendship among Peoples. Since 1995, China has refused to publicly declare the whereabouts of Gedhun Choekyi Nyima, the Eleventh Panchen Lama and avoids responding to calls by the UN Committee on the Rights of the Child to allow an independent expert to meet and confirm the well-being of the Panchen Lama.

Torture

15. Despite the UN Committee Against Torture’s recommendation that China “ensure the prompt, thorough, effective and impartial investigation of all allegations of torture”, reports again emerged following the 2008 Tibet Uprising on the continued use of torture on Tibetan detainees, including cases of Tibetans who have died while in detention due to torture. In one instance, a 38-year-old Tibetan woman named Nechung, succumbed to torture in late-March after nine days detention following her participation in Tibetan protests in Ngapa county, Sichuan province on 16 and 17 March. In another instance, Dawa, a 31 year-old Tibetan farmer from Phenpo Lhundup County in the Tibetan Autonomous Region, died on 1 April 2008 after being severely beaten by Chinese prison guards. In another case, Thabkey, a 30 year-old monk of Labrang Monastery, arrested along with seven other monks for briefing a group of foreign media personal on a government managed tour in Labrang, Gansu province, was released after being detained for several days while in a mentally

unstable condition with bruise marks all over his body from severe beatings while in police custody.

Administration of Justice

16. While the PRC denies the existence of “political prisoners”, Tibetans continue to be prosecuted under political terms for crimes such as “splittism” (“splitting the State or undermining unity of the country”) for expressions of the Tibetan identity.
17. In commenting on the case of a group of Tibetans who established a “youth group” whose “purpose was to associate peacefully, or express their beliefs peacefully, without inciting or resorting to violence” and subsequently charged with “endangering national security and supporting separatist activities”, the UN Human Rights Council’s Working Group on Arbitrary Detention adopted the opinion that “unless the application of these crimes [“endangering national security and supporting separatist activities”] is restricted to clearly defined areas and in clearly defined circumstances, there is a serious risk of misuse.”
18. Venerable Ngawang Phulchung released in October 2007 after spending more than 18 years of imprisonment. One of his “crimes” was distributing a Tibetan version of the Universal Declaration of Human Rights with his nine monk-colleagues.
19. Another case concerns a Tibetan teacher whose unpublished manuscript entitled “The Restless Himalayas”, which discusses political and social issues such as sovereignty, religion, history and geography and who was planning a project addressing women’s rights in Tibet. He was sentenced in September 2005 to 10 years’ imprisonment for “endangering State security”.
20. In November 2007, Ronggye Adak (52) was sentenced to 8 years. Adak told the court that he did not carry out his protest (of 1 August 2007 in Lithang) in favor of the Dalai Lama to be a hero. He said: "I wanted His Holiness to return, and wanted to raise Tibetan concerns and grievances, as there is no outlet for us to do so. That made me sad and made me act." Ronggye Adak's government-appointed lawyer reportedly argued that asking for the return of the Dalai Lama to Tibet was purely a religious action, and not an act to bring down the government. Three other Tibetans charged of being involved were tried. Ronggye Adak's nephew, Adak Lupoe, sentenced to ten years, Kunkhyen, was sentenced to nine years while Jarib Lothog was sentenced to three years.

Indoctrination Campaigns and Religious Freedom

21. China’s “patriotic education” campaign aimed at undermining Tibetan Buddhism and the spiritual authority of religious figures, such as the Dalai Lama, remains active in Tibet’s monasteries and nunneries. According to the Tibetan Centre for Human Rights and Democracy, more than 10,000 monks and nuns have either been expelled or left their monasteries and nunneries after the “patriotic education” sessions introduced in 1996. In one example, Radio Free Asia reported on the resignation of Khenpo Tsanor, 70, as head of Dungkyab monastery in Gade county, Golog Tibetan Autonomous Prefecture, Qinghai. Commenting on his resignation, Khenpo Tsanor said: "I saw the government documents...It was written that the Dalai Lama should be thoroughly criticized and his splittist behavior should be condemned."
22. "I had no intention to sign. I knew very well that all who do not sign have to face trial in a Chinese court. They even threatened that the monastery would be shut down if we did not sign documents."
23. "Some county officials came to the monastery [and] asked me whether I will agree to step down from the position of chief abbot," he said. "I agreed since I didn't have the option of not accepting it."
24. In June 2008, Sweeping new measures introduced in Kardze, Sichuan province to purge monasteries of monks and restrict religious practice in the wake of protests across the plateau reveal

a systematic new attack on Tibetan Buddhism that is reminiscent of the Cultural Revolution. According to the new measures, specified in an official document from Kardze (Chinese: Ganzi) Tibetan Autonomous Prefecture in Sichuan province (the Tibetan area of Kham):

- Monks who express dissent or refuse to 'conform' can be expelled and their residence demolished;
- Tulkus (reincarnate lamas) could be 'stripped of the right to hold the incarnation lineage' if they communicate with foreigners or engage in protests against the Chinese authorities - a measure that is consistent with an earlier ruling that all reincarnate lamas must have the approval of the Chinese government;
- Buddhist practice will be suspended in monasteries where a specific percentage of monks have engaged in protest or dissent;
- Senior religious teachers could face public 'rectification' or imprisonment if they are shown to have even 'tolerated' peaceful protest activity.

25. The document, dated June 28 and published under the name of the head of Kardze prefecture, Li Zhangping, the measures are aimed at "dealing clearly with participants in illegal activities aimed at inciting the division of nationalities, such as shouting reactionary slogans, distributing reactionary writings, flying and popularising the 'snow lion flag' and holding illegal demonstrations."

Right to Development and Population Transfer

26. In the last fifty years, China claims that it has 'developed' Tibet and improved the living standards of Tibetans and that "Tibet Autonomous Region" today enjoys extraordinary economic growth averaging over 10 percent during the past five years. In 2001, the "TAR" showed the highest growth rate in all of China at 12.8 percent...Beijing pours huge subsidies and funds into Tibet, especially in the "TAR", amounting to more than 90 percent of the region's total revenue, thereby making Tibetans inefficiently dependent on government sources of finance from Beijing. Such finance continues to be targeted at urban areas where Tibetans have the hardest time competing with Chinese migrants.

27. Available statistics on Tibet indicate that Tibetans now lead impoverished lives. Based on UNDP's China Human Development Reports in 1997, 1999, 2002 and 2005, the "Tibet Autonomous Region" continues to remain at the bottom when ranked on the Human Development Index, a composite of health, education and income indicators. The World Bank also puts the TAR at the very bottom, in its 2003 report, East Asia Integrates. According to the UNDP's National Human Development Report 2005, education in the TAR is the worst among all of the 31 Chinese provinces. It estimates that 55 percent of the Tibetan population are illiterate, while the other 30 provinces have illiteracy rates below 20 per cent.

28. China's Western Development Strategy (WDS) is now being seen as another threat to both the fragile environment of the Tibetan Plateau and to the very survival of the Tibetans as a people. The WDS has caused concern is the exploitation of Tibet's rich natural resources, including water. China has stated that since 1999 over 1000 researchers divided into 24 separate regiments fanned out across the Qinghai-Tibet Plateau to geologically map the area, finding 16 major new deposits of copper, iron, lead, zinc and other minerals worth an estimated US \$128 billion. If the findings are confirmed, it would make Tibet one of the richest areas of China.

Forced Evictions

29. One development linked to the WDS is highlighted in a new report by Human Rights Watch, whereby the Chinese authorities have been implementing forced evictions, land confiscation and fencing policies in pastoral areas inhabited primarily by Tibetans causing irreparable consequence on their livelihood. While thousands of Tibetan nomads and farmers have been moved from their lands, on 15 August 2008, China's state media announced that 73,700 nomadic Tibetans living in Gannan (Tib: Kanlho) "Tibet Autonomous Prefecture" ('TAP') will be relocated to brick houses in the next five years. It is estimated that in the past few years, more than 250,000 Tibetans have been forced to move into these "socialist villages."

Questioning China's commitment to improving the human rights situation in Tibet

30. Attempts by the international community, the UN and civil society organizations outside China to engage China on substantive issues related to the human rights situation in Tibet are met either with silence or a fierce, uncompromising response from the Chinese government. Government policies in Tibet, no matter what their characteristics or consequences, are deemed purely the internal affairs of China and not subject to 'outside interference'. Participants in bilateral and multilateral human rights dialogues with China report little substantive progress other than the existence of the dialogues themselves.
31. Even objective assessments of the situation in Tibet supported by independent, expert research and testimony by human rights defenders are rejected by Beijing as tactics to shame China or the acts of "hostile foreign forces". Nevertheless, several high profile Tibetan political prisoners have been released to the United States since 2001, some of whom have testified at the UN Human Rights Commission and Council, while foreign delegations, including UN human rights experts have been received on tightly-controlled fact-finding missions to Tibet.
32. Instead, the Chinese government has exacerbated existing human right problems, introducing harsh new restrictions on how Tibetans practise their Buddhist faith and increasing pressure on both the Tibetan monasteries and laypeople to publicly denounce the Dalai Lama in an atmosphere reminiscent of the Cultural Revolution. In March 2008, the Communist Party leader in Tibet Autonomous Region called the Dalai Lama "a jackal in Buddhist monk's robes, an evil spirit with a human face and the heart of a beast". This kind of rhetoric aimed at the most revered spiritual symbol for Tibetans can only contribute to a widening gap between Tibetans and the Beijing government.
33. The complete lack of political will by Chinese authorities to acknowledge the existence of a human rights problem in Tibet means that the legitimate grievances of the Tibetan people receive no fair hearing. This refusal to engage in discussions with Tibetans and the Dalai Lama on their real concerns must be considered a primary cause of the wide scale uprising by Tibetans against Chinese rule during Spring, 2008.
34. In March 2008, a letter from Tibet which reached the outside world following the demonstrations in Lhasa had this appeal to the Chinese authorities: "Instead of simply blaming the unrest on the Dalai Lama, the government should look closely at the situation with an open mind and enter into negotiations with Dalai Lama. What we are seeking is a genuine degree of autonomy (not to be confused with an independent Tibet), where Tibetans have the right to govern themselves within the Chinese system and preserve their own cultural and religious identity, while having equal economic opportunities to those afforded to the Chinese. As long as Tibetans can live happy, prosperous lives, we don't care what flag what we do it under."

Prospect for a negotiated solution to the Tibet question

35. The Dalai Lama has consistently stated that a solution for Tibet must be found through non-violent means. To this end, since 2002, envoys of the Dalai Lama have met with representatives of the Chinese government on eight occasions in an effort to begin a substantive dialogue on the situation in Tibet and how it can best be resolved.
36. Such a dialogue and eventual negotiations could, with courage and compromise on both sides, result in a sustainable solution that satisfies both parties. However, again here the genuine commitment of the Chinese government to this process as a tool for real progress for Tibet must be called into question.
37. After the last round of discussion between the two sides concluded on 3 July this year, Special Envoy of His Holiness the Dalai Lama, Lodi Gyari, head of the Tibetan delegation said in a

statement that: “Throughout our talks we have reiterated to our counterparts that the issue at hand is the welfare of the Tibetan people and is not about the personal status and affairs of His Holiness the Dalai Lama or that of the Tibetans in exile ”, and that “In the course of our discussions we were compelled to candidly convey to our counterparts that in the absence of serious and sincere commitment on their part the continuation of the present dialogue process would serve no purpose.”

38. Addressing the ground realities in Tibet in cooperation with the Dalai Lama is the Chinese government’s only path to legitimacy in Tibet and the peaceful development of Tibetan areas. Members of the UN Human Rights Council must do all they can to acknowledge and address those ground realities, and to compel their Chinese counterparts to respect the human rights of all China’s citizens and to engage sincerely with the Dalai Lama in order to bring respect, welfare and peace to Tibet.

Recommendations to the Government of the People’s Republic of China

This report offers the following recommendations:

1. Adopt and implement laws and regulations for Tibetans that create conditions of genuine autonomy, where Tibetans have the rights and means to participate in decision-making on the future direction and development of Tibet
2. Provide unimpeded access to Tibet for UN human rights experts, including the UN High Commissioner for Human Rights and other independent observers to assess the human rights situation in Tibet
3. Provide unrestricted foreign media access to all Tibetan areas
4. Fully implement the many recommendations on Tibet as issued by the Special Procedures mandate-holders and UN Treaty Bodies
5. Release immediately and unconditionally all those detained and imprisoned solely for engaging in peaceful protest and/or other peaceful political activities
6. Receive and allow access to Tibet for the Special Rapporteur on Freedom of Religion or Belief and other invited Special Procedure mandate-holders of the UN Human Rights Council, including the Special Rapporteur on Summary or Arbitrary Executions
7. End policies and practices targeted at Tibetan Buddhist institutions and which undermine the practice and preservation of Tibetan Buddhism, including State intervention in the identification and training of Tibetan reincarnate lamas, and the use of ‘patriotic education’ campaigns, which include denunciations of the Dalai Lama
8. Fully implement the recommendations of the UN Committee on the Rights of the Child, including access for an independent body to visit the Gendun Choekyi Nyima, the 11th Panchen Lama of Tibet
9. Allow the functioning of independent civil society organizations in Tibetan areas, and offer access and support to bilateral technical assistance providers and international NGO programs to further the development of Tibetan CSOs
10. Impose a moratorium on the resettlement of Tibetan nomads displaced by government development policies, pending an independent assessment and legal review of such policies. In all prior instances of resettlement, offer affected persons the opportunity to return or settle in an area nearby or like the one from which they have been moved
11. Ratify immediately the International Covenant on Civil and Political Rights and ensure that its protections are extended to all Tibetans

Mr. TSERING. Our report goes into detail on China's failure to respect international recognized human rights of the Tibetan people, a violation of which include areas of arbitrary detention, disappearances, torture, administration of justice, religious freedom, right to development, forced evictions, population transfer, et cetera. Since March 10, 2008, over 135 demonstrations in more than 60 counties in the

Tibetan areas have taken place highlighting the lack of civil, political, economic, social, and cultural rights as a result of China's rule.

The U.N. Special Rapporteur raised some hazards stated that Tibetans suffer various forms of systematic and institutional discrimination in the spheres of employment, health care, education, housing and public representation. The U.N. Special Rapporteur on Violence against Women have stated that women in Tibet continue to undergo hardship and are also subjected to gender specific crimes, including reproductive rights violations such as forced sterilization, forced abortion, coercive birth control policies, and monitoring of menstrual cycles.

The U.N. Special Rapporteur on the Right to Education said she was dismayed at the illiteracy rate in Tibet, which is 39.5 percent, and asked the Ministry of Education of China whether one reason might be the fact that the literacy test was in Tibetan while Mandarin is used in political, economic, and social life.

The Tibetans describe the current military crackdown and policies adopted by China towards Tibetans in Tibet as reminiscent of the Cultural Revolution. An analysis of the Congressional Executive Commission on China disclosed figures by China's officials that since March 10th over 4,400 Tibetans have been detained or allegedly surrendered in connection with the protest which began on March 10, 2008. While China continues to deny the existence of, quote/unquote, political prisoners Tibetans continue to be prosecuted under political terms for crimes such as splittism, which is a Chinese term for undermining the unity of the country and for expressions of the Tibetan identity. These are some of the examples of the human rights violation in Tibet.

The Chinese Government contained in its UPR report that it protects and promotes the rights of ethnic minorities in which category it includes the Tibetan people. It further says that ethnic minorities benefit from special preferential policies in the political, economic, cultural, and educational spheres. In principle, Chinese rules do have provinces limited compared to those espoused by democratic government relating to human rights and development. But the problem isn't implementation of even these limited provinces. The Memorandum on Genuine Autonomy for the Tibetan People that envoys of the Dalai Lama submitted to the Chinese government during eight rounds of talks between the two sides held on November 2008 clearly puts forward the specific needs of the Tibetan people. These include the following 11 areas: Language, culture, religion, education, environment protection, utilization of natural resources, economic development and trade, public health, public security, regulation on population migration, cultural, education and religious exchanges with other countries. I ask that the text of the memoranda be included in the Commission's records.

Chairman McGOVERN. Without objection.

[The information follows:]

(Translated from the original Tibetan)

MEMORANDUM ON GENUINE AUTONOMY FOR THE TIBETAN PEOPLE

I INTRODUCTION

Since the renewal of direct contact with the Central Government of the People's Republic of China (PRC) in 2002, extensive discussions have been held between the envoys of His Holiness the 14th Dalai Lama and representatives of the Central Government. In these discussions we have put forth clearly the aspirations of Tibetans. The essence of the Middle Way Approach is to secure genuine autonomy for the Tibetan people within the scope of the Constitution of the PRC. This is of mutual benefit and based on the long-term interest of both the Tibetan and Chinese peoples. We remain firmly committed not to seek separation or independence. We are seeking a solution to the Tibetan problem through genuine autonomy, which is compatible with the principles on autonomy in the Constitution of the People's Republic of China (PRC). The protection and development of the unique Tibetan identity in all its aspects serves the larger interest of humanity in general and those of the Tibetan and Chinese people in particular.

During the seventh round of talks in Beijing on 1 and 2 July 2008, the Vice Chairman of the Chinese People's Political Consultative Conference and the Minister of the Central United Front Work Department, Mr. Du Qinglin, explicitly invited suggestions from His Holiness the Dalai Lama for the stability and development of Tibet. The Executive Vice Minister of the Central United Front Work Department, Mr. Zhu Weiqun, further said they would like to hear our views on the degree or form of autonomy we are seeking as well as on all aspects of regional autonomy within the scope of the Constitution of the PRC.

Accordingly, this memorandum puts forth our position on genuine autonomy and how the specific needs of the Tibetan nationality for autonomy and self-government can be met through application of the principles on autonomy of the Constitution of the People's Republic of China, as we understand them. On this basis, His Holiness the Dalai Lama is confident that the basic needs of the Tibetan nationality can be met through genuine autonomy within the PRC.

The PRC is a multi-national state, and as in many other parts of the world, it seeks to resolve the nationality question through autonomy and the self-government of the minority nationalities. The Constitution of the PRC contains fundamental principles on autonomy and self-government whose objectives are compatible with the needs and aspirations of the Tibetans. Regional national autonomy is aimed at opposing both the oppression and the separation of nationalities by rejecting both Han Chauvinism and local nationalism. It is intended to ensure the protection of the culture and the identity of minority nationalities by powering them to become masters of their own affairs.

To a very considerable extent Tibetan needs can be met within the constitutional principles on autonomy, as we understand them. On several points, the Constitution gives significant discretionary powers to state organs in the decision-making and on the operation of the system of autonomy. These discretionary powers can be exercised to facilitate genuine autonomy for Tibetans in ways that would respond to the uniqueness of the Tibetan situation. In implementing these principles, legislation relevant to autonomy may consequently need to be reviewed or amended to respond to the specific characteristics and needs of the Tibetan nationality. Given good will on both sides, outstanding problems can be resolved within the constitutional principles on autonomy. In this way national unity and stability and harmonious relations between the Tibetan and other nationalities will be established.

II RESPECT FOR THE INTEGRITY OF THE TIBETAN NATIONALITY

Tibetans belong to one minority nationality regardless of the current administrative division. The integrity of the Tibetan nationality must be respected. That is the spirit, the intent and the principle underlying the constitutional concept of national regional autonomy as well as the principle of equality of nationalities.

There is no dispute about the fact that Tibetans share the same language, culture, spiritual tradition, core values and customs, that they belong to the same ethnic group and that they have a strong sense of common identity. Tibetans share a common history and despite periods of political or administrative divisions, Tibetans continuously remained united by their religion, culture, education, language, way of life and by their unique high plateau environment.

The Tibetan nationality lives in one contiguous area on the Tibetan plateau, which they have inhabited for millennia and to which they are therefore indigenous. For purposes of the constitutional principles of national regional autonomy Tibetans in the PRC in fact live as a single nationality all over the Tibetan plateau.

On account of the above reasons, the PRC has recognised the Tibetan nationality as one of the 55 minority nationalities.

III TIBETAN ASPIRATIONS

Tibetans have a rich and distinct history, culture and spiritual tradition all of which form valuable parts of the heritage of humanity. Not only do Tibetans wish to preserve their own heritage, which they cherish, but equally they wish to further develop their culture and spiritual life and knowledge in ways that are particularly suited to the needs and conditions of humanity in the 21st century.

As a part of the multi-national state of the PRC, Tibetans can benefit greatly from the rapid economic and scientific development the country is experiencing. While wanting to actively participate and contribute to this development, we want to ensure that this happens without the people losing their Tibetan identity, culture and core values and without putting the distinct and fragile environment of the Tibetan plateau, to which Tibetans are indigenous, at risk.

The uniqueness of the Tibetan situation has consistently been recognised within the PRC and has been reflected in the terms of the '17 Point Agreement' and in statements and policies of successive leaders of the PRC since then, and should remain the basis for defining the scope and structure of the specific autonomy to be exercised by the Tibetan nationality within the PRC. The Constitution reflects a fundamental principle of flexibility to accommodate special situations, including the special characteristics and needs of minority nationalities.

His Holiness the Dalai Lama's commitment to seek a solution for the Tibetan people within the PRC is clear and unambiguous. This position is in full compliance and agreement with paramount leader Deng Xiaoping's statement in which he emphasised that except for independence all other issues could be resolved through dialogue. Whereas, we are committed, therefore, to fully respect the territorial integrity of the PRC, we expect the Central Government to recognise and fully respect the integrity of the Tibetan nationality and its right to exercise genuine autonomy within the PRC. We believe that this is the basis for resolving the differences between us and promoting unity, stability and harmony among nationalities.

For Tibetans to advance as a distinct nationality within the PRC, they need to continue to progress and develop economically, socially and politically in ways that correspond to the development of the PRC and the world as a whole while respecting and nurturing the Tibetan characteristics of such development. For this to happen, it is imperative that the right of Tibetans to govern themselves be recognised and implemented throughout the region where they live in compact communities in the PRC, in accordance with the Tibetan nationality's own needs, priorities

and characteristics.

The Tibetan people's culture and identity can only be preserved and promoted by the Tibetans themselves and not by any others. Therefore, Tibetans should be capable of self- help, self-development and self-government, and an optimal balance needs to be found between this and the necessary and welcome guidance and assistance for Tibet from the Central Government and other provinces and regions of the PRC.

IV BASIC NEEDS OF TIBETANS

Subject Matters of Self-government

1) Language

Language is the most important attribute of the Tibetan people's identity. Tibetan is the primary means of communication, the language in which their literature, their spiritual texts and historical as well as scientific works are written. The Tibetan language is not only at the same high level as that of Sanskrit in terms of grammar, but is also the only one that has the capability of translating from Sanskrit without an iota of error. Therefore, Tibetan language has not only the richest and best-translated literatures, many scholars even contend that it has also the richest and largest number of literary compositions. The Constitution of the PRC, in Article 4, guarantees the freedom of all nationalities "to use and develop their own spoken and written languages ...".

In order for Tibetans to use and develop their own language, Tibetan must be respected as the main spoken and written language. Similarly, the principal language of the Tibetan autonomous areas needs to be Tibetan.

This principle is broadly recognised in the Constitution in Article 121, which states, "the organs of self-government of the national autonomous areas employ the spoken and written language or language in common use in the locality." Article 10 of the Law on Regional National Autonomy (LRNA) provides that these organs "shall guarantee the freedom of the nationalities in these areas to use and develop their own spoken and written languages...."

Consistent with the principle of recognition of Tibetan as the main language in Tibetan areas, the LRNA (Article 36) also allows the autonomous government authorities to decide on "the language used in instruction and enrolment procedures" with regard to education. This implies recognition of the principle that the principal medium of education be Tibetan.

2) Culture

The concept of national regional autonomy is primarily for the purpose of preservation of the culture of minority nationalities. Consequently, the constitution of PRC contains references to cultural preservation in Articles 22, 47 and 119 as also in Article 38 of the LRNA. To Tibetans, Tibetan culture is closely connected to our religion, tradition, language and identity, which are facing threats at various levels. Since Tibetans live within the multinational state of the PRC, this distinct Tibetan cultural heritage needs protection through appropriate constitutional provisions.

3) Religion

Religion is fundamental to Tibetans and Buddhism is closely linked to their identity. We recognise the importance of separation of church and state, but this should not affect the freedom and practice of believers. It is impossible for Tibetans to imagine personal or community freedom without the freedom of belief, conscience and religion. The Constitution recognises the importance of religion and protects the right to profess it. Article 36 guarantees all citizens the right to the freedom of religious belief. No one can compel another to believe in or not to believe in

any religion. Discrimination on the basis of religion is forbidden.

An interpretation of the constitutional principle in light of international standard would also cover the freedom of the manner of belief or worship. The freedom covers the right of monasteries to be organised and run according to Buddhist monastic tradition, to engage in teachings and studies, and to enroll any number of monks and nuns or age group in accordance with these rules. The normal practice to hold public teachings and the empowerment of large gatherings is covered by this freedom and the state should not interfere in religious practices and traditions, such as the relationship between a teacher and his disciple, management of monastic institutions, and the recognition of reincarnations.

4) Education

The desire of Tibetans to develop and administer their own education system in cooperation and in coordination with the central government's ministry of education is supported by the principles contained in the Constitution with regard to education. So is the aspiration to engage in and contribute to the development of science and technology. We note the increasing recognition in international scientific development of the contribution which Buddhist psychology, metaphysics, cosmology and the understanding of the mind is making to modern science.

Whereas, under Article 19 of the Constitution the state takes on the overall responsibility to provide education for its citizens, Article 119 recognises the principle that “[T]he organs of self-government of the national autonomous areas independently administer educational affairs in their respective areas...” This principle is also reflected in Article 36 of the LRNA.

Since the degree of autonomy in decision-making is unclear, the point to be emphasised is that the Tibetan need to exercise genuine autonomy with regard to its own nationality's education and this is supported by the principles of the constitution on autonomy.

As for the aspiration to engage in and contribute to the development of scientific knowledge and technology, the Constitution (Article 119) and the LRNA (Article 39) clearly recognise the right of autonomous areas to develop scientific knowledge and technology.

5) Environment Protection

Tibet is the prime source of Asia's great rivers. It also has the earth's loftiest mountains as well as the world's most extensive and highest plateau, rich in mineral resources, ancient forests, and many deep valleys untouched by human disturbances.

This environmental protection practice was enhanced by the Tibetan people's traditional respect for all forms of life, which prohibits the harming of all sentient beings, whether human or animal. Tibet used to be an unspoiled wilderness sanctuary in a unique natural environment.

Today, Tibet's traditional environment is suffering irreparable damage. The effects of this are especially notable on the grasslands, the croplands, the forests, the water resources and the wildlife. In view of this, according to Articles 45 and 66 of the LNRA, the Tibetan people should be given the right over the environment and allow them to follow their traditional conservation practices.

6) Utilisation of Natural Resources

With respect to the protection and management of the natural environment and the utilisation of natural resources the Constitution and the LRNA only acknowledge a limited role for the organs of self-government of the autonomous areas (see LRNA Articles 27, 28, 45, 66, and Article 118 of the Constitution, which pledges that the state “shall give due consideration to the interests of [the national autonomous areas]”). The LRNA recognises the importance for the autonomous areas to protect and develop forests and grasslands (Article 27) and to “give priority to

the rational exploitation and utilization of the natural resources that the local authorities are entitled to develop”, but only within the limits of state plans and legal stipulations. In fact, the central role of the State in these matters is reflected in the Constitution (Article 9).

The principles of autonomy enunciated in the Constitution cannot, in our view, truly lead to Tibetans becoming masters of their own destiny if they are not sufficiently involved in decision-making on utilisation of natural resources such as mineral resources, waters, forests, mountains, grasslands, etc.

The ownership of land is the foundation on which the development of natural resources, taxes and revenues of an economy are based. Therefore, it is essential that only the nationality of the autonomous region shall have the legal authority to transfer or lease land, except land owned by the state. In the same manner, the autonomous region must have the independent authority to formulate and implement developmental plans concurrent to the state plans.

7) Economic Development and Trade

Economic Development in Tibet is welcome and much needed. The Tibetan people remain one of the most economically backward regions within the PRC.

The Constitution recognises the principle that the autonomous authorities have an important role to play in the economic development of their areas in view of local characteristics and needs (Article 118 of the Constitution, also reflected in LRNA Article 25). The Constitution also recognises the principle of autonomy in the administration and management of finances (Article 117, and LRNA Article 32). At the same time, the Constitution also recognises the importance of providing State funding and assistance to the autonomous areas to accelerate development (Article 122, LRNA Article 22).

Similarly, Article 31 of the LRNA recognises the competence of autonomous areas, especially those such as Tibet, adjoining foreign countries, to conduct border trade as well as trade with foreign countries. The recognition of these principles is important to the Tibetan nationality given the region's proximity to foreign countries with which the people have cultural, religious, ethnic and economic affinities.

The assistance rendered by the Central Government and the provinces has temporary benefits, but in the long run if the Tibetan people are not self-reliant and become dependent on others it has greater harm. Therefore, an important objective of autonomy is to make the Tibetan people economically self-reliant.

8) Public health

The Constitution enunciates the responsibility of the State to provide health and medical services (Article 21). Article 119 recognises that this is an area of responsibility of the autonomous areas. The LRNA (Article 40) also recognises the right of organs of self-government of the autonomous areas to “make independent decisions on plans for developing local medical and health services and for advancing both modern and the traditional medicine of the nationalities.”

The existing health system fails to adequately cover the needs of the rural Tibetan population. According to the principles of the above-mentioned laws, the regional autonomous organs need to have the competencies and resources to cover the health need of the entire Tibetan population. They also need the competencies to promote the traditional Tibetan medical and astro system strictly according to traditional practice.

9) Public Security

In matters of public security it is important that the majority of security personnel consists of members of the local nationality who understand and respect local customs and traditions.

What is lacking in Tibetan areas is absence of decision-making authority in the hands of local Tibetan officials.

An important aspect of autonomy and self-government is the responsibility for the internal public order and security of the autonomous areas. The Constitution (Article 120) and LRNA (Article 24) recognise the importance of local involvement and authorise autonomous areas to organise their security within "the military system of the State and practical needs and with the approval of the State Council."

10) Regulation on population migration

The fundamental objective of national regional autonomy and self-government is the preservation of the identity, culture, language and so forth of the minority nationality and to ensure that it is the master of its own affairs. When applied to a particular territory in which the minority nationality lives in a concentrated community or communities, the very principle and purpose of national regional autonomy is disregarded if large scale migration and settlement of the majority Han nationality and other nationalities is encouraged and allowed. Major demographic changes that result from such migration will have the effect of assimilating rather than integrating the Tibetan nationality into the Han nationality and gradually extinguishing the distinct culture and identity of the Tibetan nationality. Also, the influx of large numbers of Han and other nationalities into Tibetan areas will fundamentally change the conditions necessary for the exercise of regional autonomy since the constitutional criteria for the exercise of autonomy, namely that the minority nationality "live in compact communities" in a particular territory is changed and undermined by the population movements and transfers. If such migrations and settlements continue uncontrolled, Tibetans will no longer live in a compact community or communities and will consequently no longer be entitled, under the Constitution, to national regional autonomy. This would effectively violate the very principles of the Constitution in its approach to the nationalities issue.

There is precedent in the PRC for restriction on the movement or residence of citizens. There is only a very limited recognition of the right of autonomous areas to work out measures to control "the transient population" in those areas. To us it would be vital that the autonomous organs of self-government have the authority to regulate the residence, settlement and employment or economic activities of persons who wish to move to Tibetan areas from other parts of the PRC in order to ensure respect for and the realisation of the objectives of the principle of autonomy.

It is not our intention to expel the non-Tibetans who have permanently settled in Tibet and have lived there and grown up there for a considerable time. Our concern is the induced massive movement of primarily Han but also some other nationalities into many areas of Tibet, upsetting existing communities, marginalising the Tibetan population there and threatening the fragile natural environment.

11) Cultural, educational and religious exchanges with other countries

Besides the importance of exchanges and cooperation between the Tibetan nationality and other nationalities, provinces, and regions of the PRC in the subject matters of autonomy, such as culture, art, education, science, public health, sports, religion, environment, economy and so forth, the power of autonomous areas to conduct such exchanges with foreign countries in these areas is also recognised in the LRNA (Article 42).

V APPLICATION OF A SINGLE ADMINISTRATION FOR THE TIBETAN NATIONALITY IN THE PRC

In order for the Tibetan nationality to develop and flourish with its distinct identity, culture and spiritual tradition through the exercise of self-government on the above mentioned basic Tibetan needs, the entire community, comprising all the areas currently designated by the PRC as Tibetan autonomous areas, should be under one single administrative entity. The current administrative divisions, by which Tibetan communities are ruled and administered under different provinces and regions of the PRC, foment fragmentation, promote unequal development, and weaken the ability of the Tibetan nationality to protect and promote its common cultural, spiritual and ethnic identity. Rather than respecting the integrity of the nationality, this policy promotes its fragmentation and disregards the spirit of autonomy. Whereas the other major minority nationalities such as the Uighurs and Mongols govern themselves almost entirely within their respective single autonomous regions, Tibetans remain as if they were several minority nationalities instead of one.

Bringing all the Tibetans currently living in designated Tibetan autonomous areas within a single autonomous administrative unit is entirely in accordance with the constitutional principle contained in Article 4, also reflected in the LRNA (Article 2), that “regional autonomy is practiced in areas where people of minority nationalities live in concentrated communities.” The LRNA describes regional national autonomy as the “basic policy adopted by the Communist Party of China for the solution of the national question in China” and explains its meaning and intent in its Preface:

the minority nationalities, under unified state leadership, practice regional autonomy in areas where they live in concentrated communities and set up organs of self-government for the exercise of the power of autonomy. Regional national autonomy embodies the state's full respect for and guarantee of the right of the minority nationalities to administer their internal affairs and its adherence to the principle of equality, unity and common prosperity of all nationalities.

It is clear that the Tibetan nationality within the PRC will be able to exercise its right to govern itself and administer its internal affairs effectively only once it can do so through an organ of self-government that has jurisdiction over the Tibetan nationality as a whole.

The LRNA recognises the principle that boundaries of national autonomous areas may need to be modified. The need for the application of the fundamental principles of the Constitution on regional autonomy through respect of the integrity of the Tibetan nationality is not only totally legitimate, but the administrative changes that may be required to achieve this in no way violate constitutional principles. There are several precedents where this has been actually done.

VI THE NATURE AND STRUCTURE OF THE AUTONOMY

The extent to which the right to self-government and self-administration can be exercised on the preceding subject matters largely determines the genuine character of Tibetan autonomy. The task at hand is therefore to look into the manner in which autonomy can be regulated and exercised for it to effectively respond to the unique situation and basic needs of the Tibetan nationality.

The exercise of genuine autonomy would include the right of Tibetans to create their own regional government and government institutions and processes that are best suited to their needs and characteristics. It would require that the People's Congress of the autonomous region have the power to legislate on all matters within the competencies of the region (that is the subject matters referred to above) and that other organs of the autonomous government have the power to execute and administer decisions autonomously. Autonomy also entails representation and meaningful participation in national decision-making in the Central Government. Processes for effective consultation and close cooperation or joint decision-making between the Central Government and the regional government on areas of common interest also need to be in place for the autonomy to be effective.

A crucial element of genuine autonomy is the guarantee the Constitution or other laws provide that powers and responsibilities allocated to the autonomous region cannot be unilaterally

abrogated or changed. This means that neither the Central Government nor the autonomous region's government should be able, without the consent of the other, to change the basic features of the autonomy.

The parameters and specifics of such genuine autonomy for Tibet that respond to the unique needs and conditions of the Tibetan people and region should be set out in some detail in regulations on the exercise of autonomy, as provided for in Article 116 of the Constitution (enacted in LRNA Article 19) or, if it is found to be more appropriate, in a separate set of laws or regulations adopted for that purpose. The Constitution, including Article 31, provides the flexibility to adopt special laws to respond to unique situations such as the Tibetan one, while respecting the established social, economic and political system of the country.

The Constitution in Section VI provides for organs of self-government of national autonomous regions and acknowledges their power to legislate. Thus Article 116 (enacted in Article 19 of the LRNA) refers to their power to enact "separate regulations in light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned." Similarly, the Constitution recognises the power of autonomous administration in a number of areas (Article 117-120) as well as the power of autonomous governments to apply flexibility in implementing the laws and policies of the Central Government and higher state organs to suit the conditions of the autonomous area concerned (Article 115).

The above-mentioned legal provisions do contain significant limitations to the decision-making authority of the autonomous organs of government. But the Constitution nevertheless recognises the principle that organs of self-government make laws and policy decisions that address local needs and that these may be different from those adopted elsewhere, including by the Central Government.

Although the needs of the Tibetans are broadly consistent with the principles on autonomy contained in the Constitution, as we have shown, their realisation is impeded because of the existence of a number of problems, which makes the implementation of those principles today difficult or ineffective.

Implementation of genuine autonomy, for example, requires clear divisions of powers and responsibilities between the Central Government and the government of the autonomous region with respect to subject matter competency. Currently there is no such clarity and the scope of legislative powers of autonomous regions is both uncertain and severely restricted. Thus, whereas the Constitution intends to recognize the special need for autonomous regions to legislate on many matters that affect them, the requirements of Article 116 for prior approval at the highest level of the Central Government - by the Standing Committee of National People

Mr. TSERING. Since the Commission has been set up specifically to work through that, and I quote, the United States will continue to be recognized throughout the world as a leader in the internationally recognized human rights, unquote, I believe it should not hesitate in promoting ideas which even require policy changes if it believes that this is where the solution is.

Now, I say this because I list a certain number of recommendations which will have either direct or indirect impact on how the United States should position itself with regard to China's UPR review. Overall, the United States needs to adopt, and I echo the chairman's sentiment, a holistic approach towards the Tibetan issue. Attempts to improve the human rights situation needs to be incorporated with efforts to resolve the human rights broader political problems in Tibet.

Accordingly, I urge the Commission to consider the following recommendations that we would like to make.

The human rights violation in Tibet is symptomatic of a bigger political problem. Unless steps are taken to address the fundamental issue mere release of a few political prisoners or the implementation of government projects in Tibetan areas will not provide any lasting solution. The Commission should ask the United States Government to consistently and proactively work for supporting the Dalai Lama's Middle Way Approach to resolve the Tibetan problem.

Two, the Commission should recommend that the administration appoint the congressionally mandated Special Coordinator for Tibetan Issues at an appropriately high level with necessary resources to fulfill its tasks.

Three, the Commission should ask the administration to have a coordinated approach on Tibet involving all relevant departments, including Treasury, Labor, Commerce and State. The Special Coordinator for Tibetan Issues at the Department of State should be fully relied upon and should be involved in any aspect of U.S. China relations that could impact Tibet, including issues of economic consequences. The United States Government should work multilaterally in developing a united Tibet policy, including at the U.N. and other regional and international forums.

Additionally, our report on China and the UPR makes the following recommendations to the government of the People's Republic of China:

One, adopt and implement laws and regulations for Tibetans that create conditions of genuine autonomy where Tibetans have the right and means to participate in decision making on the future direction and development of Tibet.

Two, provide unimpeded access to Tibet for U.N. human rights experts, including the U.N. Commissioner for Human Rights and other independent observers to assess the human rights situation in Tibet.

Three, provide unrestricted foreign media access to all Tibetan areas.

Four, fully implement the many recommendations on Tibet as issued by the special procedures mandate holders and U.N. treaty bodies.

Five, release immediately and unconditionally all those detained and in prison solely for engaging in peaceful protest and/or other peaceful political activities.

Six, receive and allow access to Tibet for the Special Rapporteur on Freedom of Religion or Belief and other invited special procedure mandate holders of the U.N. Human Rights Council, including the Special Rapporteur on Summary or Arbitrary Executions.

Seven, end policies and practices targeted at Tibetan Buddhist institutions which undermine the practice and preservation of Tibetan Buddhism, including state intervention in the identification and training of Tibetan reincarnate lamas and the use of patriotic education campaigns, which include denunciations of the Dalai Lama.

Eight, fully implement the recommendations of the U.N. Committee on the Rights of the Child, including access for an independent body to visit the Gendun Choekyi Nyima, the 11th Panchen Lama of Tibet.

Nine, allow the functioning of independent civil society organizations in Tibetan areas, and offer access and support to bilateral technical assistant providers and international NGO programs to further the development of Tibetan CSOs.

Ten, impose a moratorium on the resettlement of Tibetan nomads displaced by government development policies pending an independent assessment of legal review of such policies. In all prior instances of resettlement offer affected persons the opportunity to return or settle in an area nearby or like the one from which they have been moved.

Eleven, ratify immediately the International Covenant on Civil and Political Rights and ensure that its protections are extended to all Tibetans.

Thank you once again for the opportunity to testify before this Commission.

[The statement of Mr. Tsering follows:]

Thank you for the opportunity to talk about the situation in Tibet in the context of today's discussion on the UN Human Rights Council's Universal Periodic Review of China.

I would first of all like to congratulate the Commission on its formal establishment. We are particularly pleased that it is named after the late Tom Lantos, who played a pivotal role in promoting the cause of human rights throughout the world during his time in the Congress. It is a fitting tribute to his legacy.

In February the United Nations' Human Rights Council is going to review China's report on its human rights practices. The International Campaign for Tibet is a member of the Tibetan UPR Forum, a global coalition of NGOs acting as the Tibetan consultation on the UPR, which submitted a report titled "The Human Rights Crisis in Tibet" to the UN Human Rights Council. I would like to submit the report here for inclusion in the Commission's record.

Our report goes into details on China's failure to respect internationally recognized human rights of the Tibetan people, the violation of which include the areas of arbitrary detention, disappearances, torture, administration of justices, religious freedom, right to development, forced eviction, population transfer, etc.

The Chinese Government contends in its UPR report that it protects and promotes the rights of ethnic minorities, in which category it includes the Tibetan people. It further says that ethnic minorities benefit from special preferential policies in the political, economic, cultural and

educational spheres. In principle Chinese rules do have provisions, limited compared to those espoused by democratic governments, relating to human rights and development. But the problem is in the implementation of even these limited provisions. The MEMORANDUM ON GENUINE AUTONOMY FOR THE TIBETAN PEOPLE that envoys of the Dalai Lama submitted to the Chinese Government, during the eighth round of talks between the two sides held in November 2008 clearly puts forth the specific needs of the Tibetan people. These include the following 11 areas.

- 1) Language
- 2) Culture
- 3) Religion
- 4) Education
- 5) Environmental Protection
- 6) Utilisation of Natural Resources
- 7) Economic Development and Trade
- 8) Public health
- 9) Public Security
- 10) Regulation on population migration
- 11) Cultural, educational and religious exchanges with other countries.

I ask that the text of the memorandum be included in the Commission's record.

Since the Commission has been set up specifically to work so that the "...United States will continue to be recognized throughout the world as a leader in the defense of internationally recognized human rights norms," I believe it should not hesitate in promoting ideas, which even require policy changes if it believes that is where the solution is.

The United States needs to adopt a holistic approach towards the Tibetan issue. Attempts to improve the human rights situation needs to be incorporated with efforts to resolve the broader political problem in Tibet. Accordingly, I urge the Commission to consider the following recommendations that we would like to make.

Recommendations

The human rights violation in Tibet is symptomatic of a bigger political problem. Unless steps are taken to adequately address the fundamental issue, mere release of a few prisoners or the implementation of development projects in Tibetan areas will not provide any lasting solution. Given this situation, our recommendations to the Commission are the following:

1. The Commission should ask the United States government to consistently and proactively work for supporting the Dalai Lama's Middle Way Approach to resolve the Tibetan problem.
2. The Commission should recommend that the Administration appoint the Congressionally-mandated Special Coordinator for Tibetan Issues at an appropriately high level with necessary resources to fulfill its tasks.
3. The Commission should ask the Administration to have a coordinated approach on Tibet, involving all relevant departments, including Treasury, Labor, Commerce and State. The Special Coordinator for Tibetan Issues at the Department of State should be fully relied upon, and should be involved in any aspects of US-China relations that could impact Tibet, including issues of economic consequence.
4. The US government should work multilaterally in developing a united Tibet policy, including at the UN and other regional and international forums.

Additionally, our report on China and the UPR makes the following recommendations to the Government of the People's Republic of China

1. Adopt and implement laws and regulations for Tibetans that create conditions of genuine autonomy, where Tibetans have the rights and means to participate in decision-making on the future direction and development of Tibet

2. Provide unimpeded access to Tibet for UN human rights experts, including the UN High Commissioner for Human Rights and other independent observers to assess the human rights situation in Tibet
3. Provide unrestricted foreign media access to all Tibetan areas
4. Fully implement the many recommendations on Tibet as issued by the Special Procedures mandate-holders and UN Treaty Bodies
5. Release immediately and unconditionally all those detained and imprisoned solely for engaging in peaceful protest and/or other peaceful political activities
6. Receive and allow access to Tibet for the Special Rapporteur on Freedom of Religion or Belief and other invited Special Procedure mandate-holders of the UN Human Rights Council, including the Special Rapporteur on Summary or Arbitrary Executions
7. End policies and practices targeted at Tibetan Buddhist institutions and which undermine the practice and preservation of Tibetan Buddhism, including State intervention in the identification and training of Tibetan reincarnate lamas, and the use of 'patriotic education' campaigns, which include denunciations of the Dalai Lama
8. Fully implement the recommendations of the UN Committee on the Rights of the Child, including access for an independent body to visit the Gendun Choekyi Nyima, the 11th Panchen Lama of Tibet
9. Allow the functioning of independent civil society organizations in Tibetan areas, and offer access and support to bilateral technical assistance providers and international NGO programs to further the development of Tibetan CSOs
10. Impose a moratorium on the resettlement of Tibetan nomads displaced by government development policies, pending an independent assessment and legal review of such policies. In all prior instances of resettlement, offer affected persons the opportunity to return or settle in an area nearby or like the one from which they have been moved
11. Ratify immediately the International Covenant on Civil and Political Rights and ensure that its protections are extended to all Tibetans

Thank you once again for the opportunity to testify before your Commission.

Chairman McGOVERN. Thank you very much for your testimony. We really appreciate very much you being here today.

I would now like to ask Rebiya Kadeer from the Uyghur American Association to provide her testimony. Thank you very much for being here.

STATEMENT OF REBIYA KADEER

Ms. KADEER. Thank you, Mr. Chairman. And it is my great honor to speak at the Tom Lantos Human Rights Commission regarding the terrible situation of the Uyghur people.

And I will let Mr. Alam Sateh, my assistant, read my statement for you.

Mr. SATEH. Thank you for the invitation and opportunity to speak here today. I am especially pleased to speak in front of the Commission which honors a great human rights leader who spoke up against injustice all over the world. Congressman Lantos gave a voice to the Uyghurs and other oppressed peoples that we otherwise would not have had, and his spirit still lives on through the many facets of the human rights movement that he helped to create and strengthen.

The spectacular opening of the August 2008 Olympic Games in Beijing took the breath away of audiences around the world. The ceremony was a display of prowess that said the PRC had arrived on the world stage.

For 16 days athletes competed in the spirit of unity, and world media interest in China reached unprecedented levels. Then on August 24th the games ended and the world's attention moved elsewhere. The short attention span proved a disaster for the Uyghur people in East Turkestan because the post-Olympic Games period has seen a time of fierce repression and hardship for the Uyghur people.

In this testimony I will focus on four areas that have worsened over the past year, although China's repression of Uyghurs includes political, religious, economic, education, family planning, environment, et cetera. And the four areas that I am going to talk about, one is especially for the Uyghurs and Tibetans, the judicial concerns, violations of religious rights, curbs on freedom of speech, and inflammatory rhetoric by Chinese officials. However, I would like to begin with the buildup to the post-Olympic crackdown which was largely ignored by the outside world.

On August 14th, in a speech Wang Lequan, the Chinese Communist Party Secretary of the region, stated that the Chinese Government authorities face a life or death struggle to quell Uyghur unrest. According to the Hong Kong based Information Center for Human Rights and Democracy, by the end of August Chinese Government authorities were mobilizing some 200,000 public security officers and armored police in East Turkestan. What we have seen since August is

a following through on Wang Lequan's call for a life or death struggle. In its annual country reports on human rights abuses the U.S. State Department has highlighted human rights abuses by the Chinese Government authorities in East Turkestan, including the use of the legal system as a tool of repression against the Uyghur people. Uyghurs in East Turkestan also face a wide spectrum of other human rights abuses, including arbitrary detention and execution. We have seen that last year, and the forcible transfer of women to eastern China to work in factories as cheap or slave labor; the removal of Uyghur language as a language of instruction at all levels of education throughout the region; severe employment, housing and healthcare discrimination; and the officially encouraged mass influx of Han Chinese migrants into East Turkestan.

On December 17th, just a month ago, Abdurahman Azat and Kurbanjan Hemit were sentenced by the Intermediate People's Court of Kashgar to death for intentional homicide and illegally producing guns, ammunition and explosive. Abdurahman Azat and Kurbanjan Hemit had been detained for allegedly carrying out the so called August 4th attack in Kashgar in which 16 armed police were killed.

On January 4, 2009, China's Procuratorial Daily reported that nearly 1,300 people were arrested in East Turkestan on state security crimes in 2008 alone marking a steep increase over previous years. In China state security crimes are punishable by death. Of the nearly 1,300 arrests made, 1,154 were formally charged and faced trials or administrative punishment. According to the People's Republic of China's National Statistics Bureau, only 742 people were arrested on state security crimes throughout the entire country in 2007, and 619 of those were indicted.

What is disturbing about these three events is the astonishing lack of evidence accompanying the allegations, arrests, and death sentences. The case against Abdurahman Azat and Kurbanjan Hemit is particularly alarming as eyewitness evidence from tourist bystanders contradicts the official version of the events. We have no idea if this evidence was considered by Chinese judicial authorities at the trial, if there ever was one, was carried out behind closed doors.

Repeated allegations of terror are an attempt by the Chinese Government authorities to demonize the Uyghur people. This demonization permitted security forces to make the unprecedented numbers of arrests of Uyghurs in 2008. All of this judicial mistreatment takes place in East Turkestan with no acknowledgement of a need for transparency. All Uyghurs are now treated by the Chinese authorities as suspects.

The PRC's post-Olympic crackdown in East Turkestan manifests itself beyond the cases of individuals to society as a whole.

Violations of religious rights have worsened since the August Olympics.

Students and government employees were not permitted to fast during the Ramadan last year or attend mosques in general. Restaurants were also forced to open during fasting hours. Women were prohibited from wearing scarves, and it was forbidden to play certain types of religious tapes. The official websites of towns and counties of East Turkestan published such restrictions openly during the Ramadan period in 2008 during at an unprecedented level of explicitness.

Uyghurs are now not permitted to undertake an annual pilgrimage unless it is with an expensive official in which applicants are carefully vetted for their obedience to the law. Confiscations of passports to the point where very few Uyghurs have passports ensure adherence to the official tours only policy, and also restricts other types of international trips.

At a meeting held on November 17th in the City of Karamay, Communist Party Standing Committee member, Burhan Kahar, together with other local government officials, put forth specific arrangements for 22 minority cadres in Karamay to liaise with mosques and religious worshippers in the area, in part to cut off unstable factors and achieve the goal of unifying the masses of worshippers.

Uyghurs have also experienced further curbs on freedom of speech.

Xinjiang University police arrested Miradil Yasin, aged 20, and Mutellip Teyip, aged 19, on December 20th in relation to the organization of a peaceful protest. The two university students were arrested in the regional capital of Urumchi for distributing leaflets on the Xinjiang University campus urging students to join in a peaceful demonstration. Both Miradil Yasin and Mutellip Teyip were transferred to the Urumchi Public Security Bureau after their arrest for further investigation and interrogation. So at the moment we are not aware of their whereabouts.

More recently, provincial Party Secretary Wang Lequan told members of the People's Armed Police Forces on January 11th that the three forces of terrorism, separatism and extremism appeared to be preparing a series of attacks in the region, citing no evidence whatsoever.

Deputy Party Secretary Nur Bakri was quoted in official Chinese media as telling 500 government delegates on January 7th to be on guard against the three evil forces and to be prepared for a long battle against these elements.

Xinjiang Uyghur Autonomous Region Deputy Communist Party Secretary Nur Bakri also delivered a lengthy speech on September 10th just 2 weeks after the Olympics accusing Western countries of instigating terrorism, separatism and extremism in East Turkestan.

These remarks mitigate the growing social, economic, and political challenges that exist in East Turkestan, and without any type of positive reforms, as well as a

perceived lack of options, Chinese officials have resorted to force, intimidation and character assassination.

In conclusion, I would like to ask that an international independent body investigate the allegations of terror against the Uyghur people in general, especially in the cases of Abdurahman Azat and Kurbanjan Hemit, who are condemned to die so soon. I also ask the U.S. Government to seek a halt to the ongoing Chinese Government crackdown in East Turkestan and possibly consider establishing a consulate in Urumchi to monitor the deteriorating human rights situation in the region.

Lastly, I want to ask the People's Republic of China to halt the inflammatory rhetoric by Chinese officials which is not conducive to the creation of long term peace and stability.

Uyghurs had hoped that the Chinese Government would honor its pre-Olympic promises for greater respect of human rights. Honoring this promise and not just hosting a spectacle for the world would have truly facilitated the Chinese Government's entry into the international community as a responsible global leader, but unfortunately that is not the case.

Thank you very much.

Mr. WOLF. [Presiding] the next witness in the order.

STATEMENT OF T. KUMAR

Mr. KUMAR. Thank you very much, co-chairs and members of the Commission. Amnesty International is extremely pleased to be here to testify about two issues. One is the U.N.'s UPR review and about China's human rights situation. Before I go into my testimony I would like to congratulate and thank U.S. Congress for creating this Commission. It is the best thing that has happened so far in terms of human rights, in monitoring human rights around the world. I also have written testimony and I would like that to be part of the record.

Mr. WOLF. Sure. Without objection.

Mr. KUMAR. Thank you very much. I would like to first give a brief outline of the human rights situation in China today. China imprisons thousands of people. I repeat, thousands of people without charge or trial. Under a political system called Re Education through Labor, between 300,000 to 500,000, that being half a million people, have been imprisoned without charge or trial by their local police officers. There is no judicial overview. This particular issue itself says how arrogant China is in terms of silencing their own people. China executes almost 80 percent I mean China executes more people than all the rest of the world combined. They also execute political prisoners. In the province of Xinjiang, Uyghurs, we have documented that Uyghur political prisoners have been executed. That is disturbing, because to our knowledge China is one of the few countries that execute political prisoners. China also abuse minorities like Tibetans and Uyghurs and others. Religious persecution is endemic. And also women, forced abortion and sterilization is taking place there.

So the list goes on and on. All these years because of these abuses human rights organizations, such as the U.S. Congress and others, took strong steps to counter that. The reason was during the Olympics, but nothing happened. Why? That is a question we all should ask. Even during the Olympics everyone was involved, but China did not change.

So the challenge today is whether U.N.'s UPR review is going to make a question is the question we should ask. The question I have is that before human rights councils under which the UPR is here it was U.N. Human Rights Commission. China was extremely nervous during the time when the U.S. sponsored a resolution. Now the U.S. is not even part of the U.N. Human Rights Council. I will address that later. So China was extremely nervous, and they tried to trade in some releases and some improvements whenever their commission when the U.S. informs them that they are going to sponsor a resolution on China.

One classic example is Rebiya Kadeer, who is sitting next to me. To my knowledge, the State Department told me at that time one of the main reasons she

was imprisoned was the U.S. threatened that they are going to bring a resolution at the U.N. And they kind of trade off saying that don't bring the resolution, we will release her. Whether that is true or not is the question. But the mere fact that they were nervous and they released her during the U.N. Human Rights Commission says volumes of one area where China can be put into pressure. That is why the UPR has come into play. The USA is not there to sponsor a resolution. At least UPR review, they can be more active. I am really disappointed to know that this administration, which we all have high hopes, did not instruct. They are present in Geneva. Go take this as a priority to review China's human rights in this UPR process. It is only a week or two left. Let Secretary Clinton take it as a top priority and instruct. We hope you will also exert pressure on her to take the right stand.

Now coming to the Obama administration. It is great. He has made great improvements domestically. Domestically means closing down Guantanamo and stopping torture. We congratulate him. But we have so far not seen him taking any steps internationally. One is China. There is one issue that he can address right away. That is, his inaugural speech was censored in China. Part of his wording was censored by the Chinese authorities. Especially when he mentioned communism and crackdown they censored it. So he has a great opening to call upon Chinese and condemn this and set in line where he stands in terms of human rights internationally.

Usually it is the other way around. U.S. Presidents don't look inwards, they always look outwards, lecturing others and not doing here anything. President Bush was locking people in Guantanamo and doing all these things while lecturing other people. But President Obama has done the best thing of looking inwards and has done the right thing. So it is time for him to look outwards. And his beginning can be with the Chinese, to tell them how upset he was in public, not in private, and to inform them that human rights will not be compromised for any other issues, mostly and importantly for trade, which we have seen over and over again. When the U.S. Congress and U.S. officials try to push for human rights improvements, all these business lobbyists lined up here, to scuttle them and stop us from doing.

One of the classic examples is Global On Line Freedom Act. Yahoo gave specific information of Chinese journalists who were using that to inform the outside world what was happening, and on the strength of Yahoo people were imprisoned. So as an aside Congressman Smith and others introduced the Global On Line Freedom Act. It died during the last session. Why? Everyone is not comfortable saying publicly. I can't say it is publicly. It is U.S. corporations that killed it. Now it is going to be introduced again. Let us fight hard and make sure that U.S. Congress stands up again to the U.S. corporations, at least on human rights issues. Unless President Obama also stands up, he has put all the objections for lobbyists, let him also stand up to all these business corporations and other lobbyists and give a strong message to China that he will not sit idle when they either censor his speech or when he abuses and kills his own people.

Thank you very much for inviting me.

Mr. Wolf. Thank you very much. I have to leave about 11:00. I am going to take this as an opportunity, since I didn't make an opening statement, and what Mr. Kumar said is very, very important. And you got a panel here. Everyone should know I have been to Tibet. What they have done to the Tibetans is brutal, brutal, brutal. And very few Members go, but whenever they do they generally go with the agreement of the Chinese Government and nothing happens.

Rebiya Kadeer has two kids who are in prison. They have beaten her. And I see Harry Wu here who was in prison for 17 years. And these are the experts, these are the Sakharovs, the Sharanskys with regard to China. The Bush administration did not do a very good job, and I have said publicly as a Republican that that is the case. And so what I would urge is that we put every pressure we can on the Obama administration to do better than the Bush administration.

Paulson was very weak. There should be a meeting. And I urge all of you to ask to meet with Geithner to say we do not want you to respond the same way as Paulson.

Secondly, and maybe this panel could put together a letter, we should ask the Obama administration to put an ambassador in who has the courage to stand with the dissidents. Current Ambassador Clark Randt, and I don't know what the status was, was literally almost always with the Chinese Government, not with the dissidents. During the days of Ronald Reagan the ambassador stood with the dissidents in Poland and Czechoslovakia and Hungary. The last administration, they did not. So we need an ambassador, and I think you all ought to come up with someone that you think would be a good ambassador, somebody that you would have confidence in and make sure.

And I hope, and let me just say for the record, I hope that Clark Randt is not going to go out and work for a business that is doing business in China because we don't need people in an ambassador's job who are looking for later jobs.

Third, we need a good assistant secretary. That spot stayed open for over a year, over a year. And I think we need an aggressive assistant secretary. Maybe if this panel could come together with some ideas whereby Secretary Clinton will put in somebody who is an advocate for the dissidents who will always speak out, who is not looking to know where are they going to go on their next job. But this is their number one job.

And lastly I would urge, and perhaps the panel can ask, and I would urge all of you to meet with the Secretary early. Personnel is policy, personnel is policy. You put the right person in, they will be aggressive and active.

So I want to thank the witnesses, and I think it is great. This is the first

hearing that we have had. These are the heroes with regard to this. We need an ambassador who will advocate for all of these cases. And also don't forget the evangelicals, the Protestant church is going through a difficult time, the Catholic church is going through a difficult time. There are Catholic bishops in jail. They are selling organs. They have organs. They are spying against the government. My computer was compromised, the computer of a lot of other Members here. The computer of the IR Committee was compromised. They also compromised the computers of the White House in the Bush administration. And so Secretary Rice didn't take these opportunities to vocally speak out. Hopefully this next secretary will meet with the secretary. You all should meet with them, we should ask to meet with them, have somebody who will be an advocate as the assistant secretary, someone that you feel comfortable to go to and this committee can, and lastly an ambassador in China who will advocate with regard to Tibet and not worry.

I can remember when Chris Smith and I were there in July, everyone that we were going to meet with was arrested. And the bantering between the Secretary and the Foreign Minister the next day was what venue are you going to go see and what Olympics venue were you going to go see when these people were arrested right under the nose of the Secretary of State. So we need a Secretary who will stand up, a Secretary of Treasury that will stand up, an assistant secretary that will be really an advocate who really believes. And lastly an ambassador that you know when there is a case will go down to the foreign ministry and pound on the door and not worry about what he or she is going to work on later on.

And with that I am going to go to my meeting and turn it back over. But I want to thank the panel.

Ms. EDWARDS. Now we are prepared to hear the testimony of Harry Wu and thank you very much for being here.

STATEMENT OF MR. WU

Mr. WU. First of all, I am very happy that the Human Rights Caucus changed the name into Tom Lantos Human Rights Commission. And Tom Lantos is a great man. We, as the Chinese dissidents all the time remember this great man. First of all, I want to respond to Congresswoman Donna Edwards talking about women's rights. I think you remember in 1995, Hillary Clinton was in Beijing. She said women's rights is a part of human rights. This is 14 years ago. Has anything changed today? Unfortunately, Chinese implement a policy, so called birth control, so they could control the population in the last 30 years.

Simply we can simplify this policy. Every woman in China, it doesn't matter what is their position, their income, whatever, if they want to give a birth, they need a permit, a permit from the government. Without the permit, illegal. And if you have got a permit, you can make a life and pregnant and give a birth. That is it. One child for one family. And you pregnant again, illegal. How to handle it? Forced abortion, forced sterilization. That is basic policy.

So that is why in 2005, Chinese authority say, well, we are very happy that until today, we have 1.3 billion population, so we reduced the number 300 million. Oh, my gosh. 300 million. If we save 10 percent of them, the boy was born, the girl was born and eliminated, forced abortion. That means 30 million population. That is a basic human rights. Giving birth is a fundamental right. The Chinese, every woman don't have it. If you don't have a government permit, stop, no pregnancy.

This is a human rights situation. Unfortunately, this month, a Chinese officer make announcement. He said we make an investigation from 2001 to 2006 and we find out that 70.7 percent of women, they want to have a second child. They wish, only wish. That is 3 years ago. This is not investigated by BBC or Voice of America or whatever, outsider. The Chinese government did. 70.7 percent of women say I want a second child. And no one have it. And the policy was still going on. You will pay the fine if you give a second child, even they destroy your house, even they arrest you, forced to abort, forced to sterilize. How many women are sterilized, how many abortion? We never know. From the top from the central government and into the village, everywhere they have a so called population control officer. They can arrange the police, they can arrange the transportation, arrange all the government agency to come up to you and arrest you and force your abortion.

Unfortunately the policy was still going on. And very entrusting Chinese government last December released a human rights report never talking about abortion, never talking about women's rights.

But China have 22 percent population of the world. That means millions, millions of women. The second policy in China, religious policy. I am not going to say that religion is free or not, but I can remind you that the biggest religion in the world, Roman Catholic is forbidden in China, illegal. I don't know if the Congressman or Senator or President is Roman Catholic or not. But anyway, the Roman Catholic is illegal inside China. But the Chinese set up a kind of so called patriarchal church. They talking about religious freedom. They are training the young man and women to become priest, to become nun instead of a patriarchal church. Unfortunately our two Presidents, President Clinton and President Bush, participate in the patriarchal church. You have to know the priest and Bishop, maybe sometimes they would nominate a Catholic Pope, because they set up a Catholic patriarchal. Before you say that love in the God, your have to say love in the party, love to your country.

The government who destroyed the church but today they spend a lot of money to rebuild the church. But some people want to spend the money, have their own religions, family, church, they were destroyed. Number three. China is a one ism, one party, one leader, one system country. One ism, that means talking about communism ideology. One party, that means communist party. Communist party have 70 million members, control from everywhere, from transportation, to education, to media, to the government, to the military. All of the leaders, the member of the party. And Hu Jintao was the leader. When she was elected, the people asked me, said what is your view. I said I am sorry, I have no view because he not elected by me. Even he was not elected by the party member. He was nominated by Deng Xiaoping.

So this country is entirely controlled by one party, one leader. If I disagree with him, if I have some comments, if I criticize him, what could happen to me? Well, it is simply the Chinese will say go to the laogai, probably some of them don't know the laogai. But today laogai is common word. It is in the dictionary, in the Oxford dictionary, in all these Italian, German, French dictionaries. It means similar to Soviet gulag. I was there 19 years. It is not 17 years. I was 19 years. It is true in the recent 30 years, the number of the laogai is smaller. But you know, as Honorable McGovern said, so many dissidents. Who are these people, what they did?

Recently Chinese Lu jao pore and Hu Jia was in the prison camp. It is very clear the case just because they have the idea to say something that you have to go to the laogai and dissidents are still there. Before 1994, Chinese prison camp, they called this a laogai detachment. In 1994, the government make an announcement, we stop using the laogai term because that would be good for us, good for Chinese government, good in international human rights environment because we do want the people to create a new idea like the Soviet have the gulag, the Chinese the laogai. But it is said--there is but--the function of the laogai.

Laogai means reform and labor. Reform means all the prisoners, include the petty thieves, include the murderer, they have to uphold communism, they have to have a so called brainwashing, become a new socialist person later. And second point is forced labor. So you see that all the Chinese prison camp have two different function. Even each prison camp have two different name. Chinese prison camp have enterprises name. Is a brick factory, is a farm, is hand tooled manufacturing, is artificial manufacturing, it is a coal mine.

I was working the coal mine for 9 years. So all the workers actually is prisoners. And they made a lot of products. America, since 1991, promotion and put some American enterprises in the court and classificate many products. But recently in a couple of 10 years, almost they do nothing. But Chinese laogai products actually are still working and exporting to the United States. The last issue I want to briefly talk about is execution. Before 2007, China always holding the execution publicly because this is education for the dictatorship. They gathering the people in the stadium and in the public area and announced the prisoner's sentence of death and shoot in front of the thousands and thousands of people. And particularly these executions always happened before the vacation day because they want to keep the people happy in October 1st, in New Year, in Labor Day. This always they did it. And they think this is good education to reduce the criminal rate.

But interestingly after 2006--and today you never heard there is any execution happening in China. They don't have it? Of course they have it. Even they never notice the family. They kill it, cremate it and notice the family come together urn of ashes. That is it. But there is a new very interesting development. The last 30 years, Chinese know how to use the cadavers, whatever, using the prisoners' organ for transplant patient. This is the only country today in the world.

In 2006, the number one country of the world for the organ transplant is America. America have more than 15,000 organ transplant, but none of the donor is related to the prisoners or related to execution death row prisoners. China has 13,000 organ transplant, but Chinese government admitted 95 percent of the organ is come from executed prisoners. Well, we make the interview, we talked to the doctor. They don't care. So America passed a law forbidding the doctor to come to the United States. But since 2007 in China, in surface there is no execution, but they did still killing and also attach another killing, inject a letter to kill the prisoners.

Let me stop here and say something about the current administration, Obama. So far we never heard Obama's administration respond to China and we don't hear anything about China responding to Mr. Obama. But there is one response, Chinese change or reduce something from Obama inauguration speech. They reduce one thing, reduced the communism and reduced the dissidence, two parts. So far I have never heard any other country do it. It is true we in America have a lot of business with China and Chinese bought a lot of American bonds. 50 million is a big 50

billion is a big amount. But anyway, business is not promoting human rights or change the one party ruling system at all in China. Unfortunately, the former the previous administration, include Clinton, include Bush, not doing very well.

I really hope Obama has a new position and put human rights in the right position. Thank you.

Ms. EDWARDS. Thank you, Mr. Wu. Lucy Morillon from the Reporters Without Borders. Thank you.

STATEMENT OF MS. MORILLON

Ms. MORILLON. Thank you. I would like to thank the co-chairs of the Tom Lantos Human Rights Commission for the opportunity to present this testimony today. China has one of the worst recorded attempts of violations of press freedom. It was ranked 167 out of 173 countries in Reporters Without Borders' latest press freedom index that was published last October. The number of arrests and cases of news surveillance and manipulation is still very high. China has the world's largest prison for journalists and cyber dissidents with 30 reporters and 49 cyber dissidents currently in jail. Despite these numbers, many news media entities are trying to elude the straightjacket of censorship and policy control. The Olympic games for China's coming out party to the world, an opportunity to showcase its power, but there was also the opportunity for the authorities to crackdown on dissidents. And since the end of the games, the repression has not let up. Quite the contrary. President Hu Jintao promotion of the ominous society clearly excludes democracy and free speech.

In my testimony before this commission, I will stress the main issue regarding specifically press freedom in China. We had some very interesting testimonies before and I will try to be as brief as I can. Despite the adoption in 2007 of new rules allowing more freedom to foreign reporters in the run up to the games, surveillance of foreign journalists were stepped up before and during the games. More than 50 of them were attacked, arrested or obstructed during the games and dozens of Chinese citizens were arrested for talking to the foreign media. However, last October, Reporters Without Borders welcomed the Chinese authorities announcements that those rules would become permanent. As a result, foreign reporters are theoretically able to move about freely in the country to conduct interviews without prior approval, and the exception, unfortunately, is Tibet, where special permission is needed to go to.

This is a positive step and we recognize it, but it is also a missed opportunity to really improve the situation. First of all, the authorities should have introduced rules guaranteeing the real freedom of movement, including in Tibet. We should have more freedom to interview people, including officials, and the protection of confidentiality of sources for journalists and confidentiality of their communications should also be improved. The fate of Chinese journalists and interpreters who are employed by foreign media is also still very precarious. This was the fact that these rules were actually became permanent has proved that international pressure in China can bear fruit from time to time.

Another example is at the World Trade Organization. After multiple pressures, Bloomberg and other business news wires were allowed to distribute their stories directly to the Chinese media and not only through the State news

agency, Xinhua, as is the case for other news agencies. The political police and the propaganda department are the two main forces working to prevent freedom of expression and trying to block the liberal press, Internet users and dissidents. However, the effect of their constant censorship and surveillance is not only a silencing of political or social criticism, this is also a criminal censorship.

Let us talk about the recent tainted milk scandal. The censorship imposed by the Chinese government had a direct impact on the health of tens of thousands of newborn babies in China and in other countries. And the death and suffering of these babies could have been avoided had journalists and researchers been able to publish the information they had about it as early as December 2007. This was published only in September of 2008. However, despite all the negatives, a few positive trends can be seen. The rise of the Internet in China has produced a new forum for discussion and is more likely to cover controversial topics such as social riots, consumer rights and so on. The Internet is pushing traditional media to cover topics they would usually not be able to cover or not be willing to cover. Sometimes foreign journalist stories are being posted on exiled Chinese Web sites, and these stories make it back to the Chinese Internet, even if there is a heavy censorship from the authorities. And once these stories are out there, the mainstream media is forced to cover them. Some liberal media outlets have also been testing the limits of censorship--I am thinking of Nanfang Dushi Bao, Nanfang Zhoumo and Beijing News. They have, for instance, broken the stories a few months ago of how local developments were sending petitioners into psychiatric hospitals.

This is a very important story that the mainstream media would not have covered. Human rights defenders in China have also been harshly targeted by the Chinese authorities who are trying to make an example out of some of them. We mentioned earlier the case of Hu Jia being treated as a criminal in China when he is getting international awards and attention. He received the European parliament's prestigious Sakharov Prize last December and this was a victory for all human rights defenders.

Chairman McGovern was asking what is the latest on his case. We were able to talk to his wife in December. She was saying he was transferred to the Beijing Municipal Prison in October, that his health seemed to be a little better. But they have had--he has had two blood tests, the results are not being known. So she was pretty worried about his virus and whether or not it is getting worse. So we are definitely keeping an eye on this.

We mentioned also earlier Charter 08, a call for the rule of law and respect for human rights in China. This is a very important achievement, the blueprint for fundamental political change in China which has been signed by thousands of people and has provoked a harsh reaction from the government.

Dissident Liu Xiaobo has been detained since December 8. But despite the

efforts of the Chinese government to quiet this voice, he is speaking out for change, the movement has been receiving attention and support on an international scale. Reporters Without Borders has submitted a contribution to the Human Rights Council's Universal Periodical Review. We are calling upon the UPR to take seriously our concerns, along with those of the Human Rights Community independently from the political games and alliances that are being played out in the Council. It is the UPR's duty to assess fairly the situation of human rights in China. And this particular review next month is especially important since it is dealing with countries like China and Russia, important players on the international scene.

Our recommendations for China to UPR are to obtain the release of all journalists and Internet users detained for exercising their right to seek and provide information, continue to improve the new rules regarding reporters access to Tibet and protection of their sources; disband the publicity department, the former propaganda department, which exercises data control over the contents in the Chinese press; end the jamming of foreign radio stations and the blocking of thousands of news and information Web sites based abroad; suspend the laws and the self-discipline pact that lead to content censorship on the Internet; end the blacklisting of journalists and human rights activists which prevent them from visiting China; lift the ban on Chinese media use of foreign news agency video footage and news reports without prior permission and legalize independent organizations of journalists and human rights activists.

Regarding specifically the U.S., we would like to see the new U.S. administration make human rights a priority, not a second thought in its policy towards China. We also would like to see more U.S. involvement in the coming UPR process. Kumar was mentioning earlier the Global Online Freedom Act, a bill which aims at preventing American companies from being forced to collaborate with Chinese and other Internet restricting countries.

We would like to see Congress pass this bill. We believe it is a very important step for the future of flow of information in China. We would also like to see more U.S. Congressmen and U.S. officials visit dissidents in China, come to meetings with their counterparts, at least with prisoners that need to be released, not only during the human rights dialogue, but every time they have an opportunity. I know a lot of you already do it.

But the more who will do it, the more efficient it will be--Representative Frank Wolf has been very famous for doing this. And the last thing. While China is extending its news operations abroad, giving more and more money to the State agency Xinhua and to CCTV. We also would like to see the United States denounce before the Union of International Telecommunications, the jamming of U.S. radio stations, especially Radio Free Voice of America, stations that are being supported by Congress and being paid by--with U.S. taxpayer money. Thank you.

Ms. EDWARDS. Thank you. And I will defer to Congresswoman Schakowsky. Do you have questions?

Ms. SCHAKOWSKY. I did want to ask some questions about freedom of speech. So during the Olympics, there was more of an opening or no?

Ms. MORILLON. No.

Ms. SCHAKOWSKY. Tell me about that.

Ms. MORILLON. Well, the Olympics was an opportunity for the Chinese government to crackdown on dissidents. We had a lot of dissidents being arrested, some of them being sent out of Beijing before the games happened. Basically everyone that was criticizing the government before or in the run up to the games was considered an enemy of China. And the games were actually an opportunity for the government to control the dissidents. So we have seen more repression during the games.

Ms. SCHAKOWSKY. What about the journalists? You were promised more freedom during the Olympics

Ms. MORILLON. It was partly true for foreign reporters, since January 2007, we had these new rules where foreign reporters were able to go to a different part of China without asking for prior permission as it was the case before. They were able to interview people and so on without prior permission again. But we have seen dozens of Chinese being arrested. I met with some foreign reporters that were complaining that they interviewed some people about being relocated because of the construction for the games and these people were arrested, like, the day after they talked to them.

Ms. SCHAKOWSKY. So in other words, you may have more freedom in going around and talking to people, but the people that you talk to then end up being arrested?

Ms. MORILLON. Exactly. It is a very subtle way to control the information. So I would say there was a little bit more freedom for foreign reporters but more consequences for the people they would talk to.

Ms. SCHAKOWSKY. How does that affect your work? Does that mean you actually don't do it because of the consequences?

Ms. MORILLON. Well, you try to be extra careful when you talk to people in China because you know that their freedom is at stake. And this is something a lot of reporters have been complaining during the game that they didn't know when they should talk to the people or if they should make sure that they meet in a specific place to draw as little attention as you can. So you have less opportunity when you

talk to the people in the street because you are afraid they would be arrested. Tiananmen Square was full of plain clothes police more than regular tourists. So if you would talk to someone there and this person would complain about anything wrong with the government, it is very likely they would end up in jail.

So I guess this had some consequences in how foreign reporters were going to the Chinese people in sort of a self-censorship as well.

Ms. SCHAKOWSKY. So advocating for journalists in the UPR process may not be all that helpful? We have to be advocating for dissidents or just for ordinary people who want more freedom of speech in China?

Ms. MORILLON. Well, journalists are important not because they are journalists, because they are a relay between the people and what is going on. They are supposed to be holding accountable the powerful. It is very hard for the journalist working for the mainstream media. But some of them have the daily job and they write what they can. They try to push the limits of censorship as the liberal media outlets are doing. And these really need our support. And sometimes also when they cannot write it down, they are going to use the Internet to cover stories, to write about stories they would not be able to do in the mainstream media.

So it is still very important to be supporting not only foreign reporters, but the Chinese reporters who are trying to push the limits of censorship.

Ms. SCHAKOWSKY. One of you testified--was it about Yahoo and the role--the role that they played and that actually--

Mr. KUMAR. What happened--Lucie is also an expert on this. There was one journalist, Shi Tao, in China. He sent out some e mail information to someone in New York using Yahoo account about 1989 Tiananmen Square massacre. And the Chinese police knew from this particular Yahoo account the message went out. But they didn't know who the person was. So they contacted Yahoo and asked can you identify and they gladly identified. And that service has on the information provided by Yahoo, this journalist, Shi Tao was in prison sentenced for 10 years and he is still in prison. And to our knowledge, at least four prisoners were in prison--4 journalists were in prison on the strength of Yahoo information.

These are the minimum we were able to get. There may be more. There was an uproar and Tom Lantos and everyone took leadership and to go for Global Online Freedom Act was brought in and it died during the last Congress. Now it is being--coming again.

Ms. SCHAKOWSKY. And that legislation would have what?

Mr. KUMAR. It would have restricted U.S. companies from providing information about journalists and others without checking with the State Department. Lucie is

correct. There may be criminals, there may be genuine criminal information, law and order information the Chinese may need. So how to identify a genuine law and order request from a journalist's information. So this law basically says you have to check with State Department to make sure this person is not a dissident. Even that the corporations didn't like it. So we hope under your leadership that--

Ms. SCHAKOWSKY. That seems like a really sensible--

Mr. KUMAR. It is actually good for U.S. corporations. They can always say sorry, we can't give you without checking. They may not like to give, but they give. And there are other Internet companies, but Yahoo is the one that was directly involved in putting people in prison.

Ms. SCHAKOWSKY. Thank you. Well, maybe we can initiate a rebirth of that legislation.

Mr. KUMAR. It has already been drafted, but we will get back to you on that. Thank you very much.

Ms. SCHAKOWSKY. In general, I think we would all welcome at least a review of various administrative or legislative changes that make sense. So if you could make sure that you give us those ideas. Thank you. I am going to have to leave. But I appreciate it.

Mr. KUMAR. Thank you very much.

Ms. EDWARDS. I just have a couple of questions and then we will close. I am curious if you could tell me in this upcoming UPR some really helpful suggestions for the role that the United States should play in that. Because I am concerned about whether what we get out of a process will have any validity there is not the right kind of advocacy. And I wonder as China was just reviewed by the U.N. Committee Against Torture, which is the oversight treaty body of the U.N. convention against torture, what insights, if any, that any of you may be able to share could the international community take away from that review and apply to the UPR. Perhaps there aren't lessons to be learned there, but I suspect there might be.

Ms. GAER. Well, thank you, Congresswoman. There are enormous lessons. The lessons are, first of all, not to be intimidated; second of all, to probe and ask for specific information, asking for generic information about vague laws will produce an answer equally vague and not helpful. Many of the recommendations of the Committee Against Torture asked for further information about specific cases, whether it was Pancha Lama case that we spoke about here or some of the other prominent cases of individuals, Hu Jia as well.

The more often these cases are brought up, the more you address the fact that

human rights addresses real people. It is not about some vague policies. It is about real people and can only test whether those policies have meaning if you test them in the cases. So there is that information.

Secondly, there is the fact that the Chinese have tried again and again to dismiss these conclusions as somehow irrelevant or maybe even rude on the part of the international community. They called the conclusions of the committee against torture slander and they have been working very hard in Geneva to convince other countries not to even raise issues. I gave two examples at the outset of things that I think indicate that if they can ask countries like the Netherlands and Finland about whether nongovernmental organizations participate in affecting a government or whether the Internet freedom is counterproductive or not, we can be asking equal types of questions. One of the things that is clearest is in our review in the committee against torture, we identified three overarching problems affecting everything with regard to human rights performance in China. One was the States Secrets Act; the second was the Harassment of Human Rights Defenders, and the third was the fact that unaccountable thugs are used to silence people and then there is no accountability.

It seems to me these three issues really need to be followed up. They were raised by an authoritative committee. They are well known practices. And the result of that is that there is an information blockade, whether it is about what happened in Tibet, whether it is about what is going on during the Olympics or today in the Xinjiang province, whether it is about the way that reporters are treated or every other subject that we have talked here today.

So it is tremendously important to recognize that an overarching states secret policy reinforced by unaccountable harassment is going to produce further repression, not further respect for human rights. Thank you.

Mr. TSERING. May I just add something? In relation to supporting the request for this government to act strongly in raising the issue at the UPR process, I just wanted to mention two possible impacts it would have. First of all, at the individual level, raising specific cases would be a strong message to the Chinese people that they have some people who are monitoring their situation, and thereby the Chinese government will be made accountable to what it is doing on that.

This will have a long term impact on the broad issue of changing the system in China because ultimately unless we have the system in China change that respects human rights, we cannot hope for any long lasting solution. Therefore, from these 2 perspectives, I think it is wise too that the United States pay close interest in the issue.

Not just pay, but seen as paying interest, because that is important. Sometimes saying something behind closed doors has less impact than saying something publicly.

Ms. EDWARDS. Thank you. Just before you respond, I do have a question actually for Ms. Kadeer and Mr. Wu. It relates to your references to the condition and status of women. And I wonder if there are particular areas of inquiry with respect to women that could be illustrated in the UPR process.

Ms. KADEER. The Chinese government had a new policy which forcibly transferred young, unmarried Uyghur women from rural east Turkistan into an eastern part of China under the name of giving them employment. Basically take them out of their home environment, out of their love of their parents and then to eastern part of China then to make them do sort of slavery, forceable labor. In the past, the Chinese authorities this policy started in June 2006.

In the past, the government began to forcefully recruit young unmarried Uyghur women from 16 to 25 years old. Now the age limit is lowered from 14 to 25. And we have information from Chinese that if you are putting some 240,000 incidents of transfer, this transfer has been maybe more and we are not exactly sure about the number.

In addition to, of course, the family planning and other kind of policies imposed upon the Uyghur people. But in addition to other groups, we did submit a UPR report to the U.N. High Commissioner Office For Human Rights. But we have recently learned that this office has done a summary report of all the UPR submissions by NGOs. And among those groups, actually, Chinese government affiliates with groups like All China Women's Federation, All China Workers Reunion.

They also, as independent organizations, submit reports for the UPR process. So that--on behalf of the Chinese government. So it is a summary report, U.N. office, Office For High Commissioner For Human Rights. In its summary report, they basically use a Chinese government affiliated groups reports to counterbalance Tibetan groups reports, our reports and human rights human rights watch. All of their basically reports counterbalance them. Basically diluted the human rights violation situations.

So Ms. Kadeer is saying that is why U.S. plays a very critical role in bringing up the human rights violations of the Chinese government and take advantage of the UPR process effectively so that China will become accountable.

Ms. EDWARDS. Is there anything in the review process that would identify the government affiliated entities so at least there is sunshine on where that is coming from so that one is not balancing essentially government entities with the independent NGO community?

Ms. KADEER. On the Web site of OHCHR, you will see all the reports submitted by the independent human rights groups such as Tibetans Amnesty and Human Rights

Watch. At the same time, you will see the report submitted by the Chinese government affiliated groups. On the Web site, they don't say they are affiliated with the Chinese government, but we know they are Chinese government organizations.

So during the summary report process, it seems the office has used their reports, given equal weight to those reports and some weight to our reports using their so called avenues to counterbalance and basically knock off the human rights violations that we put into our reports. And that summary report is going to be used during the UPR process unfortunately.

Ms. EDWARDS. Mr. Wu?

Mr. WU. Obama released financial support for United Nations population control. I agree with it, but it should not include a Chinese program. And so far we know that China has big promotion using the United Nations money. Actually they covered up all the truths. They selected the county for the people to be there, but this is not true. And China today have a lot of money. They don't need the money from the United Nations. Thank you.

Ms. EDWARDS. Thank you. Ms. Gaer, I think you had a response.

Ms. GAER. I would just like to comment briefly on that. Throughout our review of China, issues of domestic violence were raised by committee members. The government of China has said repeatedly that it is not responsible for this issue, that it is not within the purview of our committee and they don't encourage it, therefore, they don't have any treaty obligations to prevent it from happening.

Clearly, this is going to be the most widespread issue one could ask and probe. There is no subject on which the Chinese have asked other countries more information about and how they treat women and children. The second area is the Koreans, the North Koreans who have come into China. Large numbers of asylum seekers, mostly women, many of them trafficked. They have many of them just seeking to escape to find food for their families. They have children, children can't go to school, they are hidden, they are subjected to abuse, including near slave like conditions. The Chinese don't make this area available to the United Nations high commissioner for human rights. They don't help these women at all. A little sunshine there allowing them up into that region could make a huge difference. That is another area. There are many others, but those 3 are ones that involve large numbers of people. The Chinese are asking everyone what they are doing to help women. And we ought to be focused on them. Thank you for your interest.

Ms. EDWARDS. Mr. Kumar, a question for you regarding legal reform. What are the legal reform efforts that have been made to protect the basic rights that are codified in the universal declaration of human rights and convention and how effective were they?

Mr. KUMAR. I don't have a full reply to that, but overall, we can say that whatever qualification they have tried, it has been pretty much nullified by the communist party's full control over the judicial process there. We always say there is no independence of judiciary in China. So they may have tried in the bottom level. For example, access to lawyers. Still we have documented that there is no genuine access to lawyers. They allow lawyers, but there will be people around them or there is strict access to lawyers, even for the first couple of months of detention. So overall, we will say the qualification is not working there. And that they have basically their obligations.

Ms. EDWARDS. It looks like I have been left standing. I want to thank each of you for your testimony today and I am sure that we will have an additional opportunity to inquire of you. I think it would be actually helpful for this commission to have some sense and you can do that off line of the status of various of the dissidents that we talked about because it will help for our future inquiry, and I would encourage you and we will certainly do this as colleagues to take advantage of the suggestions made by Mr. Wolf when it comes to having an ongoing and early dialogue with the Obama administration, and particularly with Secretary Clinton as she moves forward at State Department.

And I want to thank you each of you for being here today and I would love to be able to ask even more questions. But as I get a little bit more established and we do on this commission, I am sure we will have additional inquiry. Thank you very much. The hearing is adjourned.

[Whereupon, at 11:48 a.m., the commission was adjourned.]

APPENDIX

MATERIAL SUBMITTED FOR THE HEARING RECORD



**Tom Lantos Human Rights Commission (TLHRC)
Hearing Notice**

The Status of Human Rights in China – the U.N. Universal Periodic Review (UPR)

**Tuesday, January 27
10:00 – 11:30 a.m.
B-318 RHOB**

Please join the Commission at a hearing on the upcoming Universal Periodic Review (UPR) of China's human rights record at the United Nations.

Established in 2006 through U.N. resolution 60/251 PDF which created the Human Rights Council, the UPR is a unique process which involves a review of the human rights records of all 192 UN Member States once every four years. The UPR is a State-driven process and aims to improve the human rights situation in all countries and address human rights violations wherever they occur.

For years, the People's Republic of China has had a continuously worsening record of human rights violations, which was only thinly covered-up as the eyes of the international community were focused on Beijing during the 2008 Summer Olympics. Practically all areas of human rights are impacted by severe crackdowns, arbitrary arrests and detentions, and draconian punishments and the use of torture. These areas include significant violations of the right to cultural autonomy and self-determination in Tibet and Xinjiang, of the right to freedom of speech for journalists and civil activists such as the Charter 08 movement, of the right to religious freedom, of the right to a fair trial and adequate legal representation, of labor rights, of freedom from torture, as well as of the protection against forced migration.

To discuss these issues we welcome the following witnesses:

PANEL 1

- **Bhuchung Tsering**, Vice President for Special Programs, International Campaign for Tibet
- **Rebiya Kadeer**, Human Rights Activist, Uygher American Association

PANEL 2

- **Felice Gaer**, Director, Jacob Blaustein Institute for the Advancement of Human Rights
- **T. Kumar**, Advocacy Director Asia & Pacific, Amnesty International USA
- **Harry Wu**, Executive Director, The Laogai Research Foundation
- **Lucie Morillon**, Director Washington Office, Reporters without Borders

If you have any questions, please contact Hans Hogrefe (Rep. McGovern) or Elizabeth Hoffman (Rep. Wolf) at 202-225-3599.

/s/James P. McGovern, M.C.
Co-Chair, TLHRC

/s/Frank R. Wolf, M.C.
Co-Chair, TLHRC