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Dialogue is written by the staff of The Dui Hua Foundation, a non-profit organization dedicated to advancing the protection of universally recognized human rights in China and the United States.

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The Bush-Hu Summit: Progress to Come on Human Rights?

The summit between President George W. Bush and President Hu Jintao in Washington on April 20, 2006 held promise for progress on thorny human rights issues between the two countries. There were signs that Beijing, in late February and early March, had decided to resume making early releases of political prisoners prominent on State Department lists. Labor organizer Xiao Yunliang was released a few weeks before the end of his sentence, a passport was issued to Tibetan nun Phuntsog Nyidron (she left China for the US on March 17), and charges were withdrawn against the *New York Times* journalist Zhao Yan (though he was not immediately released from jail).

Other important moves were said to be in the offing. On April 3, State Administration of Religious Affairs Director Ye Xiaowen made a conciliatory statement on a possible visit to China by the Dalai Lama and the normalization of relations between China and the Holy See. Prior to this, Public Security Minister Zhou Yongkang is said to have thrown his support behind normalization with the Holy See, and Hong Kong's newly ordained Cardinal Joseph Zen spoke optimistically that rapprochement was near.

Dui Hua benefited from a new willingness on the part of its Chinese interlocutors to cooperate in the foundation's efforts to improve transparency and accountability. After more than a year of repeated requests, Dui Hua Executive Director John Kamm was permitted to attend criminal trials heard in Chinese courts: he observed a trial

of "disturbing the social order" heard in Beijing's Chaoyang District People's Court and a murder and robbery trial heard in Guangzhou's Intermediate People's Court. The foundation also received information about long-serving prisoners from local judicial authorities.

Off Guard, On Guard

On March 30, the White House issued a statement of grave concern about China's repatriation of a female North Korean refugee identified as Kim Chun-Hee (not her real name). Beijing was taken off guard by the unusual statement, which was issued while President Bush was attending a summit with the leaders of Mexico and Canada in Cancun. Then China's foreign ministry received news that the Dalai Lama would be in the United States at the same time as President Hu, and things started to go seriously wrong.

According to multiple sources in both governments, Chinese Foreign Minister Li Zhaoxing summoned the US ambassador to China, Clark Randt, and angrily denounced the visit of the Tibetan spiritual leader, becoming so upset that he left in the room in a pique of anger. Before doing so, he made clear that planned gestures in the area of human rights would not take place before the visit. This time it was the US that was taken off guard. The Dalai Lama has a multiple-entry visa to the United States, and, as it turned out, the visit was for medical purposes. (Neither the Chinese nor the American government appeared to

be aware of the impending visit, despite the fact that it was well known in Tibetan exile circles to be in the works for many weeks before the Dalai Lama arrived.) A letter from President Bush to President Hu smoothed things over, and American officials again voiced optimism that the Hu visit would yield human rights “deliverables.”

Three Embarrassments

From Beijing’s perspective, Hu’s visit to the US—the two sides never reached agreement about whether to call it a state visit or an official visit—started out well. Hu’s first stop was Seattle, Washington—one of the few states that enjoys a positive trade balance with China. The Chinese leader trumpeted his country’s business ties with Boeing, Microsoft, and Starbucks. Protestors were few in number—labor unions stayed away and Tibetan groups by and large respected the Dalai Lama’s call not to disrupt Hu’s visit—and were kept far from the Chinese party. Americans and Chinese present both say that Microsoft founder Bill Gates never raised human rights or censorship concerns with Hu Jintao, nor did the issue which Americans say represents their biggest concern about China come up in other venues.

Hu and his party then landed in Washington. What transpired on the White House South Lawn has come to be known in Washington and Beijing as “the three embarrassments.” First was the reference to the “National Anthem of the Republic of China”—the formal name for Taiwan. Then came President Bush’s remarks, which were translated so

poorly that Chinese who didn’t speak English couldn’t understand what he was talking about. Finally came the minutes-long harangue by a Falun Gong practitioner who had been granted press credentials to attend the ceremony. Hu Jintao was clearly rattled and appeared to lose his way coming off the stage. President Bush was highly embarrassed, and, by many accounts, infuriated by the security lapse and the other gaffes.

When the two leaders finally sat down, Bush apologized to Hu for the verbal assault the Chinese president had endured. The White House said that President Hu “graciously accepted” the apology and that the two leaders then moved on to a wide-ranging discussion that went on through lunch and lasted about four hours. On the human rights front, Bush again raised the need for more religious freedom and warned China against censorship of the media and Internet. (Ironically, footage of the Falun Gong practitioner shouting abuse at Hu was blacked out on Chinese TV.) He brought up the North Korean refugee Kim Chun-Hee, whose case has been pushed by a coalition of evangelical Christians based in Bush’s hometown of Midland, Texas.

Three Commitments

American officials said that Hu committed China to doing “three things” from the list of six areas of human rights concerns raised by President Bush in late 2005. Two of those six areas are known to be progress toward normal relations with the Vatican and the early release of key prisoners from a list of six names. An

American official who spoke on the record about the human rights commitments, National Security Advisor Stephen Hadley, implied that by carrying out these commitments the stage would be set for a resumption of the long-suspended human rights dialogue between the two countries.

However, hopes that China might quickly normalize relations with the Vatican were shattered in early May, when Beijing’s officially sponsored Catholic Church consecrated two bishops in open defiance of Pope Benedict XVI. The pope responded by threatening to excommunicate the two bishops, along with the bishops who carried out the consecrations. Given the bruised feelings over the Dalai Lama’s visit to the US, it is likely that the dialogue between the Chinese government and representatives of the Dalai Lama will be affected as well. On the other hand, releases of a few high profile prisoners will probably take place by mid-year.

A Signal from Hu?

With the uproar caused by the Falun Gong practitioner, Wang Wenyi, few in the audience on the South Lawn paid much attention to what Hu Jintao said. On human rights, the Chinese president stated that “China is ready to enhance dialogues and exchanges with the US side on the basis of equality and mutual respect to promote the world’s cause of human rights.” The reference to “the world’s cause of human rights” touched off speculation that China may be open to US entreaties to use its influence to curb rights abuses in countries

where it enjoys influence, such as North Korea, Myanmar, and Sudan.

According to the White House, Hu told Bush that China supports international efforts to halt the violence in Darfur. On the eve of his arrival in the US, Beijing abstained on a UN Security Council resolution imposing sanctions on four Sudanese officials implicated in the Darfur genocide, allowing the measure to pass. Then, on May 16, China voted for a Security Council resolution calling on all groups to observe the May 5 Darfur Peace Agreement. The resolution was sponsored by the United States under Chapter Seven of the UN Charter, which enables it to be enforced through sanctions or military force if necessary.

If in fact China agrees to use its influence to curb violations in third countries, a good channel for discussing and coordinating action with the US would be a resumed and expanded human rights dialogue. Beijing has been considering a proposal made by Assistant Secretary of State for Democracy, Rights and Labor Barry Lowenkron to establish working groups covering specific topics (e.g., religious freedom) as well as more frequent sessions and a broader channel for asking about and getting information on cases of concern. Since the US has decided not to stand for election to the UN's new Human Rights Council (see p. 5), the bilateral rights dialogue assumes greater

importance as prospects for multilateral cooperation have diminished.

China's help in addressing rights violations in client states would have the added benefit of improving China's image in Congress, where feelings towards China are overwhelmingly negative. Several leading members of the Senate and the House of Representatives issued stinging comments on Chinese policies to coincide with President Hu's visit, and the Chinese leader was able to meet with only six legislators while he was in Washington. Although Congress was in recess and most members were out of town, this number is low by standards set by previous visits to Washington by senior Chinese leaders. ■

Ambassador to China Discusses Human Rights Following Hu Visit

On April 27, 2006, the American ambassador to China, Clark T. Randt, Jr., was invited to make a speech at the Commonwealth Club of California in San Francisco. Entitled "Hu Jintao's Visit to the United States: Sino-American Relations in the 21st Century," Ambassador Randt's speech came just days after the closely watched visit of the Chinese president to the White House and touched on a number of issues central to that relationship, including the balance of trade, Taiwan, and halting nuclear proliferation.

Human rights issues were a particular focus of Ambassador Randt's speech. As he does in all of his public speeches, the ambassador raised the cases of several individuals who have been incarcerated for their political or religious beliefs. He mentioned Zhao Yan, the *New York Times* researcher facing state-secrets charges; Cai Zhuohua, a Christian house church pastor who is serving a three-year sentence for "illegal business activity" connected to the unauthorized publication and distribution of bibles; Yao Fuxin, a labor leader; Yang Zili, one of four young men imprisoned for organizing a study society devoted to discussion of ideas for political and social reforms; and Chen Guangcheng, a blind rights activist from Shandong who has been detained indefinitely without charge after exposing coercive local family planning measures. Also raised were the cases of American businessman Jude Shao and veteran dissident Yang Jianli, a US permanent resident.



Ambassador Randt (left) & John Kamm

Ambassador Randt spoke optimistically about the possibility for resumption of the US-China human rights dialogue and welcomed President Hu's commitments to improving human rights.

US Faces Sharp Criticism from UN on Torture

On May 5, a high-level American delegation traveled to Geneva to make a presentation to the United Nations Committee against Torture, a panel of ten international human rights experts whose mandate includes examining allegations of systematic torture and assessing adherence by states parties to the 1984 Convention against Torture and Other Cruel, Inhumane, or Degrading Treatment or Punishment (CAT).

This report by the United States—its second on the subject of implementation of CAT—was highly anticipated because it is the first since the September 11 attacks that US officials have faced questioning by an international body about abuse of detainees in American custody. In an 11-page report issued on May 18, the committee noted several areas of improvement but were overwhelmingly critical of US laws and practices.

Need for Stronger Prohibitions

The committee welcomed enactment of the Detainee Treatment Act of 2005, which prohibits cruel, inhumane, or degrading treatment of any person under US custody or physical control, but reiterated its concern about the lack of an explicit and absolute prohibition against torture—both physical and psychological—in United States law. It also rejected the American opinion that CAT provisions were inapplicable during times of armed conflict.

Serious concern was expressed with respect to US authorization of interrogation techniques that have led to serious abuse of detainees—techniques such as sexual humiliation, “water boarding,” “short shackling” (prolonged stress positions), and use of dogs to induce fear. The committee also raised concerns about insufficient investigation of torture allegations and prosecution of all individuals involved.

Closure for Guantánamo Bay

The committee dismissed several of the legal arguments that have been put forward by the United States as justification for its policies with respect to detention of prisoners in the war on terror. Of par-

ticular note was the committee’s opinion that the indefinite detention of individuals without charge at facilities such as the one at Guantánamo Bay is a violation of CAT. Based on this opinion, the committee recommended that Guantánamo Bay be closed and that detainees there either face trial in US courts or be freed.

Also addressed in the committee’s report were allegations that the United States has held detainees in secret prisons and has secretly transferred detainees to third countries for interrogation. The committee expressed regret about the refusal of the United States to comment on the existence of secret detention facilities, but welcomed the US assertion that it does not transfer individuals to third countries where it is believed to be “more likely than not” that they will be tortured.

While much attention has understandably been focused on the committee’s criticism of the treatment of terror suspects in locations beyond US borders, there were also criticisms about conditions facing ordinary prisoners incarcerated within the US prison system. In particular, the committee expressed concern about failure to protect prison inmates from sexual violence, treatment of women and juvenile prisoners, and the continuing use of electroshock devices to restrain prisoners. It also recommended that the United States take steps to ensure that its methods of execution—particularly lethal injection—do not cause severe pain and suffering.

Mixed Response to Report

US officials were quick to dismiss the report, insisting that terror detainees are being treated in accordance with US law and that the committee allowed a few serious incidents of past abuse that have been investigated and punished to overshadow new laws and procedures that have led to improvements. Questions were also raised about whether the committee exceeded its mandate by criticizing the indefinite detention of individuals at Guantánamo Bay without charge. Ambassador John Bolton, who represents the United

States at the UN, labeled the report an “unfair piece of anti-American propaganda.”

By contrast, the committee’s report was welcomed by human rights organizations throughout the world, who, while acknowledging its non-binding nature, saw its recommendations as reflective of widespread

international criticism with regard to US practices of interrogation and imprisonment in the war on terror. Such opinions have even been expressed by the leaders of staunch American allies such as Great Britain and Germany, both of whom have called on the US to close the detention facility at Guantánamo Bay. ■

China Elected to UN Human Rights Council US Chooses to Sit and Wait

As widely expected, on May 9 China was among the 47 nations selected by secret ballot in the United Nations General Assembly for membership on the new Human Rights Council (HRC). Following a draw of lots after the vote, China’s first term on the council will be a full three years.

The General Assembly established the HRC by an overwhelming vote on March 15, replacing the Commission on Human Rights as the UN’s main body for the promotion of universal human rights and freedoms. Among the key changes the HRC brings with it are apportionment of membership into regional blocs, election of members by all 191 UN member states, and a provision allowing for suspension of a member state by two-thirds vote of the General Assembly for failing to “uphold the highest human rights standards.”

In both the pledge submitted in support of its candidacy to the HRC and its statement following the election, China generally affirmed its respect for universal human rights and commitment to “the promotion and protection of human rights and fundamental freedoms of the Chinese people.” It acknowledged the important role of the UN in protecting and promoting human rights and stressed its own program of human rights dialogues, exchanges, and consultations with countries in both the developing and developed world.

China’s agenda for the HRC was also made clear when it expressed its hope that the council would “respect the historical, cultural, and religious backgrounds of different countries . . . attach equal importance to civil and political rights on the one hand and economic, social, and cultural rights on the other . . . ensure impartiality, objectivity, and non-selectivity in the consideration of human rights issues, and [eliminate] double-standards and politicization.” All of these are areas in which China feels the former commission failed.

China acknowledged that “much work remains to be done in the field of human rights” and promised to “seriously fulfill its obligations under international human rights conventions.” However, no concrete commitments addressing specific shortcomings were made.

The United States expressed last-minute reservations that the HRC as proposed did not go far enough towards a strong, credible institution, and it ultimately was one of four UN member states to vote against the resolution to create the council. Although it later expressed support for the goals of the HRC, the United States ultimately chose not to seek election to the council for the first term—the only permanent member of the UN Security Council to do so.

In explaining this decision, an American diplomat to the UN in Geneva acknowledged that getting elected to the council would involve considerable “political capital” to overcome what he termed the “poisonous atmosphere in the UN” with respect to certain US policies. He explained that the US government would prefer to devote itself to supporting the election of governments genuinely committed to protecting human rights and preventing the election of those countries it considers to be human-rights abusers.

Although US statements about the future of the HRC have been generally positive in public, its actions reveal considerable skepticism that the council will be able to avoid becoming as ineffective as its predecessor. With China, Cuba, and Saudi Arabia—countries that the United States has frequently criticized for having poor human rights records—all gaining seats on the HRC, some observers wonder whether the United States made the right choice to sit on the sidelines rather than take a more active role in influencing the council’s development by becoming a member.

NEW RESEARCH & PRISONER INFORMATION

UN Torture Rapporteur Report Confirms Sentence Changes for Tibetan Prisoners

On February 28, Dui Hua reported news of the sentence commutation and subsequent sentence reduction for **Jigme Tenzin** (晋美旦增), who was sentenced to life imprisonment in September 2000 for the crime of splittism. This information was transmitted to Dui Hua in response to an email request to the Ministry of Foreign Affairs. Confirmation of the changes to Jigme Tenzin's sentence came with the long-awaited release on March 10 of United Nations Special Rapporteur on Torture Manfred Nowak's report on his fact-finding mission to China.

Jigme Tenzin (also known as Bangri Tsamtrul Rinpoche) and his wife, **Nyima Choedron** (尼玛曲珍), were detained in August 1999 on suspicion of being connected to an anti-Chinese protest that was carried out in Lhasa during the national minority games held earlier that year. The orphanage they ran was shut down for being an illegal business operation and the children dispersed. Following the sentence reductions, Jigme Tenzin is now scheduled for release on July 30, 2021. Nyima Choedron, who received a 10-year sentence during the same trial, has received two sentence reductions and is due to be released from prison on February 26, 2007.

In Mr. Nowak's report of his interview with Jigme Tenzin in Tibet's new Chushur Prison, he states that upon entering prison Jigme Tenzin was given education about the "status of Tibet" and that he subsequently decided to confess, in order to avoid spending the rest of his life in prison. According to the report, he complained of heart disease and gall stones and said that he finds it monotonous to have to spend most of his time in his cell, as is normal for the most serious criminals.

While at Chushur Prison, Mr. Nowak also interviewed **Jigme Gyatso** (晋美加措), who was sentenced to 15 years' imprisonment in 1996 for counterrevolution. Jigme Gyatso informed the Special Rapporteur that he had been given a two-year sentence extension in

May 2004 after shouting "Long live the Dalai Lama" in prison. He also reported suffering beatings with electric batons as a result of this incident. Prior to the Special Rapporteur's report, Dui Hua had received conflicting reports regarding a possible sentence extension for Jigme Gyatso, and efforts to seek clarification from the Chinese government are ongoing.

Also recorded in the Special Rapporteur's report are interviews with political prisoners seen during visits to prisons in Beijing and Xinjiang. In Beijing No. 2 Prison, Mr. Nowak met with **He Depu** (何德普), **Hu Shigen** (胡石根), **Xu Wei** (徐伟), **Yang Jianli** (杨建利), and **Yang Zili** (杨子立). In Xinjiang, he was able to interview three Uyghur prisoners: **Abdulghani Memetimin** (阿布都艾尼·买买提明), **Nurmuhemmet Yasin** (努尔买买提·亚森), and **Tohti Tunyaz** (托乎提·吐尼亚孜).

Information Received About Longstanding Shanghai Cases

On April 11, Dui Hua announced that it had received new prisoner information in response to requests made to a research association with close links to the Chinese government. Here we take the opportunity to recount in greater detail two cases from Shanghai, both of which were uncovered by Dui Hua many years ago but whose outcome remained unknown until recently.

Jiang Cunde (蒋存德): According to the original account in the *Shanghai Public Security Records*, before his arrest Jiang Cunde was a worker in a Shanghai factory who began to be politically active in 1985 and 1986. He allegedly advocated organizing a movement based on Poland's Solidarity trade union, and at the time of widespread student demonstrations in December 1986 he helped to plan a "China Human Rights Committee."

After quitting his job in February 1987, Jiang is alleged to have teamed up with two other workers and hatched a plot to hijack an airplane to Taiwan. He reportedly went to the Shanghai Municipal Library to re-

search bomb-making and airplanes and was arrested in Fujian Province while attempting to buy handguns.

Jiang was sentenced to life imprisonment in 1987 and sent to Shanghai's Tilanqiao Prison. In January 1993, he was certified as having a psychiatric illness and released on medical parole to the custody of his mother. During the next several years he reportedly joined a reactionary sect and sent numerous letters to newspapers, threatening to kill himself if they were not published.

When US bombs destroyed the Chinese embassy in Belgrade in May 1999, Jiang took advantage of public demonstrations to create a serious disturbance. He was taken into custody the following month for violating medical parole regulations and returned to Tilanqiao to continue serving his sentence. In August 2004, Jiang's sentence was commuted to 20 years' imprisonment, which means that he is currently due for release in August 2024.

Yu Rong (余蓉): According to the original accounts in *China Police* and the 1990 *Shanghai Public Security Yearbook*, Yu Rong was responsible for distributing 1,450 reactionary leaflets in Shanghai over a four-month period beginning in June 1989. Most of the leaflets were dropped from tall buildings in the city center, and when Yu was finally captured by police it was discovered that he had also been responsible for more than twenty acts of arson and for dropping bricks from buildings on passers-by below, causing serious injuries and three deaths.

Yu reportedly told police that he had been encouraged by the demonstrations in the May and June of 1989 and that his aim in distributing the leaflets had been to stir up more trouble. After being arrested by police in October 1989, he was diagnosed with schizophrenia and committed to a psychiatric detention center (known as an *ankang* hospital), where he remains until today.

Chinese Lawyers Warned About Taking “Mass Cases”

On May 15, the All-China Lawyers Association (ACLA) made public its “Guiding Opinion on Lawyers Handling Mass Cases,” a set of provisional rules adopted in March. These rules could have a major impact on the willingness of Chinese lawyers to represent plaintiffs who try to use the courts to fight such things as official corruption, environmental damage, and seizure of property by the government.

The ACLA, which regulates the legal profession in China, has required that lawyers who take on “mass cases”—defined as involving 10 or more persons pursuing the same case—must report these cases to the association and “accept the supervision and guidance” of local ACLA bodies and judicial administrative organs. The scope of the regulations is broad, including lawyers who are involved in litigation as well as those providing legal advice and other legal services in these types of cases.

The rules remind lawyers to maintain a “high sense of social responsibility” and to use the legal process to resolve disputes and “maintain national stability, safeguard economic development, and promote social harmony.” To this end, they are required to keep the authorities informed if they discover any possibility that the dispute might intensify or spread.

Lawyers are also warned against using the media (including the Internet) to stir up news about the case and to use caution in dealing with overseas organizations and media. Lawyers or law firms that do not handle mass cases in accord with this opinion are subject to discipline by the ACLA, which may also recommend official punishment such as suspension of their license.

This opinion does not discourage lawyers from taking on such cases—in fact, it explicitly recognizes that such cases should be taken seriously because “involvement of lawyers in these cases helps government, enterprises, etc. to act in accordance with the law.” It remains to be seen, however, whether lawyers in China will give more notice to the opinion's support for pursuing disputes through the legal system or its warnings of consequences if cases are handled incorrectly.

Dui Hua Welcomes Linda Ziglar

The Dui Hua Foundation is pleased to announce that Linda Ziglar has been elected to the Board of Directors effective April 25, 2006.

Ms. Ziglar is a successful entrepreneur with a distinguished record of public service. First as an analyst at the Institute for Defense Analysis, and later as president of LKL Consultants, she has excelled at developing PC-based software applications and systems and provided statistical and numerical analysis services to some of America's largest corporations. In 2003, she joined the American Frozen Food Institute where she currently serves as vice president of financial operations. She has also built an impressive career of public service, serving as an officer or board member of many community organizations.

"Linda has a deep interest in US-China relations and is strongly committed to Dui Hua's human rights mission of promoting transparency, accountability, and the humanitarian treatment of prisoners," said Dui Hua Executive Director John Kamm. "We are thrilled and honored to have someone with Linda Ziglar's background in public service and passion for social justice joining our board."

Dui Hua Admitted to CFC Program

In May 2006 The Dui Hua Foundation was admitted to the Fall 2006 Combined Federal Campaign (CFC), the only charitable giving program permitted in the federal workplace. To participate, organizations undergo an extensive admission process and must meet stringent criteria relating to governance, fiscal accountability, and programmatic impact.

The CFC kicks off across the United States in September of each year. During the fall, federal employees in the US and abroad receive a catalogue of approved international, national, and local organizations and are invited to identify organizations

that they wish to support financially. In 2005 over \$256 million was pledged to thousands of approved groups.

The official 2006 list of participating organizations will be released and posted on the government's CFC website within the next couple of months and prior to the launch of the campaign.

Kamm Attends Court Trials in China

On February 20, 2006, Dui Hua Executive Director John Kamm attended a criminal trial heard by the Guangzhou Intermediate People's Court in Guangdong Province. The case, which involved charges of robbery, was suspended by the presiding judge as he considered whether to add a murder charge. Three days earlier, Kamm attended a trial in a local Beijing court in a case of "creating a serious disturbance."

Kamm discovered that access by foreigners to Chinese trials—something that Supreme People's Court President Xiao Yang has publicly welcomed in the past—varies by location. In Guangzhou, the procedure for gaining access to trials is quite simple and straightforward, but other locations appear to regulate access more stringently.

Dui Hua hopes that Kamm's experience will pave the way for future access by foreign observers to Chinese criminal trials, including trials in cases of "endangering state security."



John Kamm (right) with Judge Zhang Jianxiong of the Guangzhou Intermediate People's Court.