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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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Dui Hua Visits Europe for Talks on Human Rights Dialogues

A delegation of Dui Hua board members and staff, led by directors John Kamm and William Simon, visited Europe from April 24 to May 7, 2005. Views were exchanged with officials of the United Nations, human rights organizations, and governments in Switzerland, Norway, and France on the value of human rights dialogues between China and the respective European governments.

The main purpose of the first few days of the visit was to deliver Dui Hua's statement (excerpted on page 3) to the UN Committee on Economic, Social and Cultural Rights with regard to China's initial report on its implementation of the International Covenant on Economic, Social and Cultural Rights. The Chinese government was represented at the meeting by a large delegation of officials from 15 ministries and the Hong Kong and Macau Special Administrative Regions involved in assessing the country's record in the area of economic, social, and cultural rights.

China's ambassador in Geneva, Sha Zukang, summarized Beijing's position by saying that the government had made genuine efforts to fulfill its obligations during the four years since the covenant had come into force in China, but that it had encountered "problems and difficulties that are hardly imaginable by other states."

The 18-member committee of experts and the various NGOs invited to attend focused their attention on two groups of prisoners central to Dui Hua's work in China:

ethnic prisoners allegedly detained for advocating an expansion of cultural and religious rights and trade union activists seeking to establish unions outside the control of the government's "All China Federation of Trade Unions." The International Confederation of Free Trade Unions (ICFTU) again condemned the Chinese government for removing the right to strike from the constitution in 1983 and for outlawing independent trade unions. It also criticized the continued imprisonment of activists like Yao Fuxin and Xiao Yunliang. The International Labour Organization (ILO) expects to receive an update on both individuals at the session of the Committee on the Freedom of Association later this month.

The Chinese delegation responded to attacks on China's record with respect to trade union rights by stating that, despite the absence of a constitutional guarantee, holding strikes was not illegal. The Chinese claimed that no one had been imprisoned for attempting to set up an independent trade union and insisted that China imprisoned only those who used trade unionism as a cover for illegal activities. While there was interest in exploring the remark on the legality of strikes, there was virtually no support for Beijing's position on imprisoned activists inside or outside the meeting room in the Palais des Nations. The Chinese delegation acknowledged that it had complied with only three of the major conventions of the ILO, but pledged to accede to the remaining 15 conventions by 2008.

On Tibet, the criticism was muted, mainly because the exiled Tibetan community and their supporters had been urged by representatives of the Dalai Lama not to jeopardize the holding of the next round of talks between these representatives and the Chinese government. Concerns over the fate of Tibetan political prisoners run high, however, and they figure prominently in all lists submitted by European governments to Beijing.

Human rights diplomats and activists applauded the release of Rebiya Kadeer in mid-March (see page 8), but decried the continued imprisonment of the scholar Tohti Tunyaz and the ongoing restrictions on religious education in Xinjiang.

Visits to Capitals

After Geneva, Dui Hua's delegation paid visits to Bern, Oslo, and Paris. The foundation currently receives grants from the governments of Switzerland and Norway and enjoys a longstanding cooperation with France. In each of the countries visited, sessions were held with senior government officials and with NGOs on a range of topics regarding human rights in China, including long-awaited reforms with respect to re-education through labor and oversight over the death penalty, normalization of relations between China and the Vatican, and the growing linkage, in the minds of many Europeans, between the violation of trade union rights and the competitive advantage of Chinese textile manufacturers.

Diplomats visited by Dui Hua were impressed by Beijing's willingness to provide information

on hitherto unknown prisoners (see *Dialogue*, Issue 18). There is strong interest in specific cases of alleged rights violations. France is a lead player in compiling the European Union prisoner list and hands over more focused lists in the framework of bilateral consultations. Both Switzerland and Norway employ lists in their own respective human rights dialogues; the Swiss will hold their dialogue in Beijing this month, while Chinese officials will visit Oslo for the next session of the Sino-Norwegian dialogue in June. The UN Special Rapporteur on Torture is slated to visit China in November.

In all of the countries there is a lively debate about the value of continuing the rights dialogues with China. The debate is fueled not only by worries over the impact on the European textile industry by a flood of Chinese products, but also by concerns raised over the lifting of the European Union's arms embargo. With time running out on Luxembourg's

presidency of the European Union, and with the likelihood that Britain won't press the issue in its presidency, it now appears that China will have to wait until 2006 before the embargo is lifted.

In order to overcome widespread concern among European governments and the people they represent that China is failing to make progress at an acceptable rate in the area of human rights, Beijing must continue to take significant, concrete steps such as freeing political prisoners and making good on promises to return approval of death penalty cases to the Supreme People's Court, abolish re-education through labor, and open an office of the International Committee of the Red Cross in Beijing.

The stakes for China are not limited to trade in textiles and sophisticated weapons systems. With the 2008 summer Olympics in Beijing coming into view, Europeans are increasingly asking themselves what kind of China will be on display. ■



John Kamm visiting former Tibetan prisoner Takna Jigme Sangpo at the Tibetan monastery in Rikon, Switzerland on April 29, 2005. This was their first meeting since Kamm traveled to Lhasa in June 2002 to help secure the elderly teacher's departure for the West.

Statement to the Committee on Economic, Social and Cultural Rights Regarding China's Initial Report on Implementation of the ICESCR (Excerpt)

The report being considered today was written two years ago and is already in need of updating. While the report before us lists the impressive achievements of the Chinese government in the area of economic, cultural, and social rights, it adds little to our understanding of the serious problems arising from the break-neck speed of China's economic growth, especially with respect to labor and minority rights.

There is no mention, for instance, of the 58,000 protests known in police parlance as "*tufa shijian*"—suddenly occurring incidents—that took place in China in 2003. The number of these protests—factory strikes, peasant demonstrations, outbreaks of ethnic violence—escalated in 2004, with as many as 10,000 protests taking place in Sichuan Province alone. How the police handled these expressions of popular discontent over perceived violations of economic, social, and cultural rights is not explored. Throughout the report, we read that the "lawful rights" of minorities and workers are protected, but what happens when the actions of minorities and workers are deemed unlawful by the police and the courts?

We can get some of the answers by conducting research into "open sources" and by engaging the Chinese government in a fact-based and results-oriented dialogue. Through such a dialogue we can obtain official accounts of prisoners like Rebiya Kadeer, released last month; Tohti Tunyaz, a Uyghur scholar still in prison; Sonam Dondrup, a Tibetan monk serving a 12-year sentence for "splittism"; and Yao Fuxin and Xiao Yunliang, two labor leaders imprisoned in Liaoning. We can read about a workers' protest that shut down a power plant in Yunnan Province for 11 days, or about police action to break up unregistered religious gatherings in Xinjiang. We can study prison regulations governing the treatment of prisoners convicted of illegal religious activity. We can even get statistics on police intelligence gathering as it relates to strikes and other manifestations of popular discontent.

The vast body of officially authorized, open source materials relating to China's implementation of the ICESCR—largely unexplored—can supplement both the Chinese government's own report and the reports of such bodies as the International Labour Organization, trade unions like the ICFTU, and NGOs like China Labour Bulletin. I encourage the Committee to do a better job collecting and analyzing open source publications and documents, not only when considering China's reports under the ICESCR but also when considering the reports of other States Parties under human rights instruments.

I will close by briefly discussing two recent developments that bear on the Chinese government's treatment of people imprisoned for political and religious activities judged by courts to be against Chinese law, including those related to the exercise of economic, social, and cultural rights.

Access to Parole and Sentence Reduction

On January 25, 2005, Dui Hua received a communication from the Chinese government. The communication consisted of four lists of prisoners who had recently been granted or were being considered for parole or sentence reduction. Most of the 56 political prisoners about whom information was provided were unknown outside of China, and most of them are still in prison. This is believed to be the first time that the Chinese government has volunteered information on prisoners whose names are not known outside of China. This development has implications for efforts by international bodies to gain access to places of detention in China. Unless the Chinese government is willing to disclose the identities of prisoners whose names are not already known, the likelihood that agreements governing access can be achieved is small.

The Chinese government took this step because it wished to demonstrate that

prisoners serving sentences for counter-revolution and endangering state security are not discriminated against when it comes to sentence reduction and parole. Anecdotal evidence, sketchy statistics, and somewhat dated regulations suggest that this has not been the case in the past, so the Chinese government's clarification, and its willingness to continue providing information on sentence reductions and paroles to illustrate this more lenient policy, is very welcome.

International Observers at Chinese Trials

On his tour of the United States last year, the president of China's Supreme Court, Xiao Yang, stated that foreigners can attend Chinese trials except those involving state secrets, juveniles, or sensational crimes like sexual assaults. I followed up during two recent trips to Beijing. In meetings with representatives of the Supreme Court, I asked to attend a trial of workers accused of "disturbing social order" or "endangering state security" by organizing strikes or other protests. I was told that no such trials were being held in Beijing during the period of my stays, but that in principle the Chinese government does not object to me or others observing such trials. The international community needs to follow up on this opportunity.

During my meetings, I also asked whether or not foreigners can obtain copies of verdicts from Chinese courts. I specifically asked for the verdict in a trial of individuals reported to have been sentenced to prison for attempting to organize an independent trade union. My request is under consideration.

Dui Hua hopes that the Chinese government will take more steps to enhance transparency and step up its cooperation with the UN, other governments, and NGOs in the common effort to protect and respect human rights, and that the fruits of these efforts will be apparent in future reports of the Chinese government on its compliance with the ICESCR.

US Failure to Ratify Covenant Undercuts Rights Rhetoric

For several decades, United States foreign policy has been based in part on the promotion of human rights. Americans pride themselves on the protections their constitution and legal system offer for individual rights and see them as standards for other countries to match. But when it comes to embracing international law as a tool for human-rights advancement, the United States stands conspicuously alone in its unwillingness to participate in a system of human rights protection based upon international treaties and treaty bodies.

Only One Covenant Ratified by US

As an illustration, one need look no further than the two major human rights covenants—the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR)—passed by the United Nations in 1966. Whereas most major industrialized nations signed both treaties within a few years of passage by the United Nations, the United States failed to take the lead and instead signed only after both treaties had received enough signatures from other nations to enter into force.

After President Jimmy Carter finally signed both treaties in a ceremony at UN headquarters in New York in October 1977, he formally submitted the ICCPR and ICESCR to the Senate for the ratification necessary to make them legally binding. At that time, President Carter urged the Senate to give the treaties prompt

ratification, saying that to do so would “confirm our country’s traditional commitment to the promotion and protection of human rights at home and abroad.”

However, the Senate did not ratify either covenant during Carter’s administration, and the Reagan administration refused to resubmit them for ratification, claiming the need for further review. Finally in 1992, after languishing for nearly 15 years, the ICCPR was ratified by the Senate—but only after the attachment of numerous reservations, declarations, and understandings

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that critics argue have vitiated the covenant’s force as international law. The Clinton administration came into office promising once again to urge the Senate to complete the ratification of the ICESCR, but more than a decade later the treaty remains unratified.

Rights Protected by ICESCR

The ICESCR covers a broad range of protections of some of the most fundamental rights. It calls on nations to recognize the rights of all individuals to things such as work, education, social security, and an adequate standard of living and to ensure that these rights are exercised without discrimination of any kind.

The principles enunciated in this treaty are intended as goals to which its states parties (those nations that have either ratified or acceded to it) should strive through perfection of their institutions.* It also establishes a monitoring body, the Committee on Economic, Social and Cultural Rights, which oversees such implementation.

To date, nearly 80 percent of UN member states have either acceded to or ratified the ICESCR. The United States is one of seven nations that have signed, but not ratified, the treaty but is only one of two to have

left the ICESCR unratified for more than ten years. (South Africa signed the ICESCR in 1994.) Besides nations such as Burma, Cuba, and Saudi Arabia that are often targets of human-rights criticisms, the majority of the remaining countries that have not yet signed the ICESCR are small island nations in the Caribbean or South Pacific, suggesting that the percentage of the world’s population covered by the protections of the covenant is even higher.

Why US Has Not Ratified ICESCR

In light of the broad acceptance of the ICESCR, American failure to ratify the treaty is glaring. Why has the ICESCR had such a difficult

history in the United States? Some complain that the principles embodied in the ICESCR suggest the kind of quasi-socialist welfare state of which many Americans are suspicious. They view the covenant's goals of safeguarding rights to such things as jobs, education, and housing as "aspirational" in nature but insist that placing legal obligations on nations to achieve these goals is problematic. Moreover, there are real fears that ratification could open up the United States to greater scrutiny for alleged human rights violations.

As some have pointed out, ratification of a human rights treaty is relatively easy, but living up to its obligations is another story. They question how many of the States Parties to the ICESCR have actually put in place a system to implement its protections that is superior to that which already exists in the United States. Observance, in this view, is more important than ratification, and if the

ICESCR offers no real new protection to Americans it is essentially unnecessary.

The present US position is that United Nations human rights bodies have strayed from the "proper" focus on "core" civil and political rights in favor of increased emphasis on economic, social, and cultural rights. However, by prioritizing certain types of rights over others—despite overwhelming international consensus that sees them as fundamentally intertwined—the United States allows other countries such as China to make a similar choice to put off ratification of the ICCPR and focus more on the economic, social, and cultural rights that it considers to be more fundamental. This picking and choosing among certain rights negates the notion that these human rights are universal, a fundamental principle of the United Nations itself.

By failing to ratify the ICESCR, the United States sends mixed signals about its commitments to human rights progress on the one hand and establishing a system of international law and justice on the other. The goals outlined in the covenant are in the interest of all nations—including the United States. Selecting some parts of international law to accept while claiming exemption from others in the name of national interest weakens the entire system. If large, powerful nations such as the United States and China cannot make concessions in the interest of promoting an international system that defends rights and upholds justice for all, then the protections promised in the Universal Declaration of Human Rights sadly become mere words on a sheet of paper. ■

*Accession and ratification entail different processes, but both result in a nation's acceptance of a covenant as binding law.

Ratification Status of Selected Human Rights Treaties: The United States & China

Selected International Human Rights Instruments	United States		China	
	Signed	Ratified	Signed	Ratified
International Covenant on Economic, Social and Cultural Rights (1966)	10/5/77		10/27/97	3/27/01
International Covenant on Civil and Political Rights (1966)	10/5/77	6/8/92	10/5/98	
Second Optional Protocol to the ICCPR, Aimed at the Abolition of the Death Penalty (1989)				
International Convention on the Elimination of All Forms of Racial Discrimination (1965)	9/28/66	10/21/94		12/29/81 (acceded)
Convention on the Elimination of All Forms of Discrimination Against Women (1979)	7/17/80		7/17/80	12/3/81
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984)	4/18/88	10/21/94	12/12/86	10/4/88
Convention on the Rights of the Child (1989)	2/16/95		8/29/90	3/2/92
International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (1990)				

Source: Office of the UN High Commissioner for Human Rights web site (www.ohchr.org/english/bodies/treaty).

NEW RESEARCH & PRISONER INFORMATION

Information Released on Dozens of Prisoners

In our last issue (#18, Winter 2005), we reported on an unprecedented amount of prisoner information provided in January of this year by China's Ministry of Justice to The Dui Hua Foundation. This information consisted of sentencing details on 56 individuals, many of whom were previously unheard-of outside of China. In that issue, we reported to our readers information given to us on 19 of those prisoners, focusing particularly on individuals in Fujian and Tibet.

Due to the large amount of information provided, in this issue we will not be including details on prisoners whose situations and names are well known to governmental and non-governmental agencies (e.g., Liu Jingsheng, Yao Fuxin, and Xiao Yunliang) and about whom no new information was provided. We shall also omit those who have been released from prison already and will instead focus on individuals who are still in prison—and in particular on those whose names were hitherto unknown or about whom responses have rarely been provided to Dui Hua or to others. Unless otherwise stated, release dates given in brackets are based on the information provided.

Beijing

Zhao Yan (赵岩), Chinese citizen. Because he was charged with suspicion of illegally providing state secrets outside of the country, the Beijing Municipality People's Procuratorate gave its approval and he was arrested on October 20, 2004 by the Beijing Municipality State Security Bureau. Currently the Beijing Municipality [State] Security Bureau is carrying out an investigation according to law.

Guangdong

Li Jinzhuang (李锦壮), sentenced to 11 years' imprisonment for committing the crime of espionage. Sen-

tence reduced by one year, with seven years' sentence remaining. [Due for release by 2012.]

Liu Jian (刘建), sentenced to 12 years' imprisonment for committing the crime of espionage. Sentence reduced five times with an accumulated total of five years' reduction; currently [as of January 2005] has four years and two months' sentence remaining. [Due for release by March 2009.]

Zhang Zhensheng (张振声), sentenced to 10 years and eight months' imprisonment for committing the crime of espionage. Sentence reduced three times with an accumulated total of three years and four months' reduction; currently [as of January 2005] has two years and seven months' sentence remaining. [Due for release by August 2007.]

Guizhou

Chen Xi (陈西), male, born on February 29, 1954, Han ethnicity, originally from Yulin in Guangxi, prior to arrest was manager of the Guizhou Totem Enterprises Company. Sentenced to 10 years' imprisonment by the Guiyang Intermediate People's Court for committing the crime of organizing and leading a counterrevolutionary group. Currently in custody at Guiyang Prison. [According to unofficial sources, Chen is due to be released on May 26, 2005.]

Heilongjiang

Li Zhongguo (李忠国), male, sentenced in 2000 to 15 years' imprisonment for committing the crime of endangering state security. Sentence reduced three times by a total of three years and six months, then reduced again by one year and seven months in 2004. [Due for release by 2010.]

Hunan

Wang Yuguo (王宇国), sentenced in 1984 to life imprisonment with deprivation of political rights for life for committing the crime of using feudalistic superstitions to carry out counterrevolutionary activities. In January 2005, the prison submitted a report recommending a sentence reduction of 14 months; the court is now hearing this case. [Note that prior to the recommendation for a sentence reduction, Wang's life sentence had to have first been commuted to a fixed-term sentence.]

Shandong

Chen Jianguo (陈建国), male, sentenced in 2000 to 12 years' imprisonment with five years' subsequent deprivation of political rights for committing the crime of subversion. Sentence reduced by one year in 2004. [Due for release by 2011.]

Shanghai

Chen Mushui (陈慕水), male, sentenced in 1996 to 15 years' imprisonment with four years' deprivation of political rights for committing the crime of espionage. Later given three more sentence reductions, and on October 22, 2004 given a reduction of one year.

Sichuan

Wang Zijun (王子俊), male, sentenced in 2001 to eight years' imprisonment for committing the crime of armed rebellion. Sentence reduced by 10 months in December 2003. [Due for release by 2008.]

Zhao Liulun (赵六伦), male, sentenced in July 2000 to 15 years' imprisonment for committing the crime of armed rebellion. Sentence reduced by one year in December 2003. [Due for release by July 2014.]

Fujian: Ten Unknown Prisoners Serving Sentences for Espionage

Due to the close proximity of Fujian Province to Taiwan, that province sees the largest number of espionage cases of any region in the country. Although the date of sentencing for the following individuals was not provided, in each case the reported sentence reduction or commutation was handed down within the past year, indicating that these people are likely still incarcerated. The fact that all of the individuals were previously unknown outside of China makes the information especially valuable.

Name	Original Sentence	Changes to Sentence (with date of change)
Chen Zhaojian (陈朝建)	Death with reprieve	Commutated to life imprisonment (Sept. 2004)
Chen Zhanshui (陈占水)	12 years' imprisonment	Reduced by 2 years, 4 months (July 2004)
Gao Funan* (高福南)	7 years' imprisonment	Reduced by 8 months (Sept. 2004)
Hong Xinchao (洪新潮)	15 years' imprisonment	Reduced by 1 year, 9 months (Sept. 2004)
Huang Chuanlong (黄传龙)	12 years' imprisonment	Reduced by 1.5 years (Jan. 2005)
Jiang Renxi (蒋仁曦)	12 years' imprisonment	Reduced by 1.5 years (June 2002), 1.5 years (Aug. 2004)
Lin Qilong (林启龙)	Life imprisonment	Reduced by 1 year, 2 months (Jan. 2005)
Lü Meibo (吕梅波)	Life imprisonment	Reduced by 1 year, 5 months (Sept. 2004)
Qiu Zhangqi (邱章棋)	8 years' imprisonment	Reduced by 10 months (Nov. 2004)
Yang Wenbo (杨文波)	13 years' imprisonment	Reduced by 1.5 years (Sept. 2004)

*Note that Gao Funan was sentenced not for espionage but for the related crime of illegally providing intelligence abroad.

Executive Director John Kamm Speaks at Franklin College, Notre Dame

In March 2005, Dui Hua's Executive Director John Kamm gave speeches at Franklin College and the University of Notre Dame, both located in Indiana. "The Road Less Traveled: A Businessman as Rights Activist" was delivered at Franklin College and was part of the Tull Lecture Series. The speech given at Notre Dame, entitled "Civil Rights, Human Rights: The Struggle for Justice in the United States and China," was this year's O'Grady Asia Lecture.

In his speech at Notre Dame, Kamm emphasized the similarities between the struggles for civil rights in the United States in the late 1950s and 1960s and in China today, both "societies in which rapid economic growth takes place amid a great widening of the gaps between those that have and those that have not." Kamm also emphasized the significance of the American civil rights movement on his own human rights work: "I took away from my encounter with the civil rights movement in America the bedrock belief that social change is best achieved through non-violence. In the absence of democracy, non-violent resistance is the most effective way to confront absolute power and the special corruption it breeds."

Kamm explained the importance of Dui Hua's approach to intervene on behalf of prisoners in achieving positive results. "Prisoners who are asked about by outsiders often receive better treatment, including early release, than those who are ignored. Those who are forgotten, those who become prisoners without names, in cells without numbers, exist in a twilight world of unimaginable pain and despair. Whether in Mississippi's Parchman Penitentiary or in Lhasa's Drapchi Prison or in Iraq's Abu Ghraib, having a name, being asked about by outsiders is not only about living with dignity, it is about surviving, about staying alive. That's what we at Dui Hua do. We ask about people. Sometimes

power answers."

To read the full text of Kamm's Notre Dame speech, please visit our web site, www.duihua.org. ■

Dui Hua Plays Role in the Release of Uyghur Activist Rebiya Kadeer

On March 17, 2005 Rebiya Kadeer, a prominent businesswoman and a member of Xinjiang's predominantly Muslim majority Uyghur ethnic group, was released on medical parole and flown to Washington DC to receive treatment for a heart condition. Dui Hua's role in arranging the release was widely noted by international media.

On August 11, 1999, Kadeer was detained on her way to a meeting with members of a delegation of American congressional staff. In March 2000, she was sentenced to eight years' imprisonment for "illegally providing state intelligence abroad." In light of the circumstances surrounding her imprisonment, her case was one of the highest priorities of the State Department's dialogue with China on human rights.

Prior to her arrest, Kadeer had made significant contributions to women's rights and had been appointed to the Chinese People's Political Consultative Congress and the Xinjiang Uyghur Autonomous Region People's Congress. She also served as a delegate to the 1995 United Nations World Conference on Women in Beijing. The director of a large and successful trading company, she founded the "Thousand Mothers Movement" in 1997 in an effort to promote job training and employment for Uyghur women.

In March 2004, Kadeer received a one-year sentence reduction for good behavior. At that time, sources in the Chinese government informed Dui Hua that she would be considered for additional sentence reductions or parole if she continued to demonstrate "genuine repentance and willingness to reform." Kadeer was released almost one year and five months before her revised release date and almost two years and five months before her original sentence was due to expire. ■