

CHINA AND HUMAN TRAFFICKING: UPDATES AND ANALYSIS

ROUNDTABLE BEFORE THE CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA ONE HUNDRED ELEVENTH CONGRESS SECOND SESSION

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FRIDAY, AUGUST 20, 2010

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The roundtable was convened, pursuant to notice, at 10:08 a.m., in room 628, Dirksen Senate Office Building, Hon. Byron Dorgan, Chairman, presiding.

Also present: Charlotte Oldham-Moore, Staff Director.

OPENING STATEMENT OF HON. BYRON DORGAN, A U.S. SENATOR FROM NORTH DAKOTA, CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Chairman DORGAN. Well, thanks to all of you who are here. I know it's August, and I have been traveling. I've just returned from North Dakota. But since I was here today and we have organized a roundtable, I thought I would, as Chairman of the Commission, come by and have an opportunity to visit with all of you and with the witnesses.

I thank the witnesses very much, those who have come to lead the discussion today on a subject that's very important. It's a subject that I have written about in a book and a subject that our Commission thinks is very important, and that's the issue of human trafficking in China.

We have had a number of hearings and roundtable discussions about developments in China, and the subject today is one on which I think there has been progress in China. The Chinese Government, particularly at the national level, recognizes human trafficking as a problem and has taken recent actions on the issue of human trafficking, and many of the results are good.

The national government has been more aggressive in its efforts to address it than local governments who seem less capable to enforce and to really address at the local level this issue of human trafficking.

Human trafficking has long been a problem and, as I indicated, I have written about it. In fact, what I wrote about was the issue of forced labor. And let me just respond by citing a portion of the book I wrote.

I wrote about a young woman named Li Chunmei. She was a woman who died and she died working; apparently not terribly unusual in China in some areas. They actually have a word for it. It's *gulaosi*, which means overwork death and applies to young workers

who collapse and die after working exceedingly long hours day after day after day.

Li had worked over 2 months, 60 days, without even so much as a Sunday off, working 16 hours a day in factories that had terrible air quality, 90-degree temperatures; Li died and I described the circumstances of her death. This young woman was making stuffed animals that would be sent to our country, among others.

She is not an atypical person in China. She left school in the third grade, was sent to go feed livestock, and then, at age 15, sent to work in toy factories in the city and working for 30 cents an hour, 16 hours a day, with no days off, in bad working conditions, and then Li died. Just one person.

The reason I cite that case is to point out that we use statistics and aggregate data, but behind all of these statistics are individuals, people, and too often children. And the issue of human trafficking, in most cases, relates to the subject of human trafficking of women and children.

There is also human trafficking for forced labor, which is important, and, what I wrote about deals with both forced labor and children. We're very interested in encouraging China to continue the progress that they have made and increase enforcement and to aggressively go after traffickers.

So we have put together an opportunity today to hear from some very informed and interesting people who will discuss with us their evaluation of what is happening and where we are with respect to human trafficking in China.

First, Mr. Earl Brown will talk about the challenges that have been proposed by China's legal definition of human trafficking, which, by the way, is a narrower definition than has been adopted internationally. This is a problem that must be addressed.

Next, Dr. Zheng will discuss China's anti-trafficking policy and its impact on migrant sex workers, based on her ethnographic research in China's urban underground brothels.

Then Dr. Wan will discuss the impact of the Chinese Government's anti-trafficking campaigns on the work that certain non-governmental organizations [NGOs] are doing among communities that are touched by trafficking.

Finally, Patrick Radden Keefe will address the distinction between human smuggling and human trafficking.

I am going to be here only an hour and then I'm going to turn it over to CECC Staff Director Charlotte Oldham-Moore. In that time, I want to thank the witnesses very much for your willingness to be here; and, to say, also, when the witnesses or those who are going to present testimony for discussion today, when they are completed with that, we are going to have a pretty wide-open discussion with the audience, as well, and have a wide-open question-and-answer session.

So I appreciate very much all those who have now come to be a part of this today, and feel free to participate fully in the question-and-answer session.

So, first, we'll hear from Earl Brown, Labor and Employment Law Counsel for the American Center for International Labor Solidarity, an international worker rights organization and NGO affiliated with the U.S. labor movement. He has represented trade

unions and employees in U.S. labor law and civil rights litigation since 1976.

He has previously served as general counsel to the International Brotherhood of Teamsters, Associate General Counsel to the United Mine Workers, and a partner in a U.S. labor and employment law firm. He has very substantial credentials and we very much appreciate Mr. Brown being with us.

Mr. Brown?

STATEMENT OF EARL BROWN, LABOR AND EMPLOYMENT LAW COUNSEL AND CHINA PROGRAM DIRECTOR, SOLIDARITY CENTER, AFL-CIO

Mr. BROWN. Thank you, Senator.

I work for a labor and human rights NGO that has offices on the ground around the world, working with trade unions, human rights and labor rights NGOs. So we see the daily stories from victims of trafficking, labor trafficking in the main, from around the world, and those stories globally are not different from the stories we hear about China.

I'm glad that the Senator acknowledged the progress that China has been making and, in the past three years, China has made remarkable progress in erecting—beginning to erect a labor law structure and, at least in the trafficking area, ratified the treaty, the Convention on Trafficking and the protocols, the Convention on Organized Criminality and the protocols.

But I want to go for a moment to the human faces that the Senator has mentioned, which is what keeps most of our organization working around the world, a lot of time that, for a labor organization, is uncompensated.

That is, first of all, based on Asia, we have an office in Thailand and that is a center of labor trafficking and a center of trafficking as it impacts China and a demonstration of how trafficking is a regional problem and an outgrowth of dual labor markets, a formal, legal labor market and an informal, illegal or tending to illegality labor market.

I interviewed, for many hours, a young boy who grew up on a pineapple plantation and the one thing he wanted to do is get away from pineapples. He never wanted to see one again. So he went to the big city and was literally, as we say in English, “shanghaied” by a Chinese gang, held in a home for three weeks, put on a vessel, fished without pay under force of a gun off the waters of Indonesia. And from there, he and a friend jumped off the boat, swam to the coast of Indonesia, mucked around in the jungle, came back to Thailand and was “shanghaied” again. That is an amazing story, and this was a Hong Kong southern coastal China gang operating in Thailand.

In another instance, I was in the south of Thailand with a migrant worker rights NGO and we were at the border with Malaysia, and there were all these women in a bus. And after inquiry, we found out they were from North Korea. And their story was they had fled North Korea across the river into Liaoning Province in China, had transited all over China, down to Yunnan, from Yunnan into Burma, from Burma into Thailand, and from Thailand, they were now going into Malaysia.

We couldn't figure out exactly what they were doing. They told us they had been promised jobs in electronics factories. The chances of them working at jobs in electronic factories are low and the chances of them ever getting paid for any kind of work they do are very low.

So these are the stories that, in our view, from our offices around the world, are multiplying, as an economic crisis takes a hidden toll on workers everywhere, as more workers are dropped out of formal legal structure, as more employers seek to avoid labor law compliance by resorting to semi-legal and illegal labor markets.

We have a pretty word for some of these semi-legal markets. We call them flexible labor markets. But, in fact, they are labor markets where wages are not paid according to standard, children are allowed to work, hour restrictions are not maintained, and labor is cheap because it's illegal.

To us, as a lawyer, as labor lawyers and worker rights advocates, this poses a huge rule of law question, because the employers that want to abide by the law—and by the way, most citizens of the world encounter the law through either petty criminal law or labor law. They don't encounter it through copyright law. They don't encounter it through patent law. They don't encounter it through commercial contract law.

They encounter it through labor law, where they're paid their wages as due, when due; and, they encounter it when their kids get in trouble with speeding or traffic rules or some other thing. And that's how they judge the law.

If that law is not enforced and if employers who want to obey that law have to compete with employers who don't obey the law, we are eroding the rule of law generally at a level I don't think is widely appreciated, and this impunity and erosion of the rule of law that attends the semi-legal and illegal labor market is growing in the world. It's growing in the region.

I don't think any government is up to speed on it; that the traffickers, the brokers, the freight-forwarders of human cargo, the drivers, the receiving agents, the banks, the escorts—all these people are so adaptable that it's very hard for staid, understaffed, under-resourced labor bureaucracies to keep up. It's hard for prosecutors to keep up, even the most nimble prosecutors.

That's why we, in our work around the world, focus on strengthening labor institutions on the ground, as well as insisting on rigorous prosecution of these crimes.

Now, the Senator pointed to the progress in Chinese law and he pointed, also, to a gap. China, again, in December 2009, I believe, ratified and acceded to the Palermo Protocol on Trafficking. That is a step forward. But the domestic Chinese law—it remains for China to domesticate that law—only talks about women and children and has a particular emphasis on sex trafficking.

The International Labour Organization estimates that for every one victim of sex trafficking, there are nine victims of labor trafficking. Now, at the Solidarity Center, we do not view sex trafficking, bride trafficking, and labor trafficking as competing or conflicting, and there's a remarkably rich, bipartisan, interfaith, cross-ideological consensus on all trafficking, and they are not competing. As a matter of fact, they are mutually reinforcing illegal-

ities, because people who traffic for labor the young women, the most vulnerable, the children, are often sexually abused. People who are trafficked for sex are often slotted into work.

It's the same banks. It's the same drivers. It's the same agents. It's the same ships. It's the same escorts in many cases.

So we're not for an artificial divorce, but we would certainly urge China and the United States—because this is a problem for all countries and we need a new discourse. Trafficking survives in the United States, where, in our opinion, a lot of Chinese workers are trafficked because of labor illegality in the United States. That's what fuels it. So we can't point to one system as perfect and one as imperfect. It's a mutual problem. As I say, it's two countries, one problem.

With that, I will leave you and thank you for this opportunity.

Chairman DORGAN. Mr. Brown, thank you very much. We appreciate your perspective.

Next, we'll hear from Dr. Zheng. Dr. Zheng is a Professor of Anthropology at the State University of New York. She received her Ph.D. in anthropology at Yale University in 2003. She is the author of four books on sex, gender migration, HIV/AIDS, and the state. Her works include "Red Lights: The Lives of Sex Workers in Post-Socialist China," 2009; "Ethnographies of Prostitution in Contemporary China: Gender Relations, HIV/AIDS and Nationalism," in 2009; and, "HIV/AIDS Through an Anthropological Lens," in 2009. She also has another book just released, "Sex Trafficking, Human Rights and Social Justice."

Dr. Zheng, thank you very much for being with us.

STATEMENT OF TIAN TIAN ZHENG, PROFESSOR OF ANTHROPOLOGY AND COORDINATOR OF ASIAN/MIDDLE EASTERN STUDIES PROGRAM, STATE UNIVERSITY OF NEW YORK, CORTLAND

Ms. ZHENG. Thank you. In China, beginning in 1989, the state has launched periodic nationwide anti-trafficking and anti-prostitution campaigns, known as crackdowns, to end trafficking in the sex trade.

During the crackdowns, the Public Security Bureau employs a complex system of raids to attack the underground brothels, to locate undocumented trafficked sex workers. These campaigns are predicated upon the belief that prostitution is a form of violence against women and a woman will not voluntarily choose a profession that violates her own human rights.

By conflating and confusing trafficking and prosecution, stories of the rescue of suffered women highlight women as naive, passive, and innocent. Due to the failure in a dominant trafficking discourse, this is not only in China, but also in the whole world, in the international discourse, to make distinctions between voluntary migrant sex workers and forced sex workers, anti-trafficking strategies focus on raid and rescue.

By declaring that a woman who engages in prostitution is a victim who requires help to escape, anti-trafficking campaigns enable law enforcement officials to exercise force to raid brothels, detain, rehabilitate, and deport women and children detected and identified as illegal migrant sex workers.

Usually, when a woman is rescued from the sex trade and put into police custody, she is subject to possible sexual assault by the police, deportation to her hometown, and forced relocation into more dangerous working areas.

In my own research on migrant sex workers in China, police raids, crackdowns, and raid and rescue have pushed sex work underground and made it more dangerous. They exacerbate the dangers, violence, exploitation, and abuse sex workers encounter, including discrimination, continued police harassment, and physical violence by local gangsters without any legal redress.

One cannot deny the fact that some individuals are forced to work as sex workers against their will. One also cannot deny the fact that sex work has its own share of occupational hazards. However, an empirical research on sex workers throughout the world has revealed that there is a broad spectrum of work experience and that the vast majority engage in sex work as a result of poverty and a lack of viable alternatives rather than trafficking.

In my own three-year ethnographic research on migrant sex workers in China, these women actively seek sex work not only in the city as undocumented migrant sex workers, but also outside of China, as a means of earning money that it will take them nearly 10 times longer to make if they stayed in China.

They express that it is their dream to migrate to other countries to conduct sex work. From my field work, I know at least a half a dozen women who had worked as sex workers in other countries, such as Japan, Singapore, Hong Kong, and South Korea, and then return to China to keep working as sex workers.

Each of these trafficked sex workers actively made a decision to seek out traffickers to move for a better living and a new livelihood. None of them could meet the criteria established for legitimate immigration; that is to say, the point system, family reunification system, refugee determination system, or the business and entrepreneur recruitment programs.

Each of them turned in 20,000 RMB, the money borrowed from relatives or friends to whom they paid back over time. Each of them also passed an interview before being permitted to go through the visa process.

After one year of sex work abroad, they return to China. They express that it is their ambition to return to those countries and continue working as sex workers.

These women became role models for many other sex workers. Their stories of fast money, even though tempered by descriptions of poor living conditions and exhausting working schedules, were a major impetus fanning the enthusiasm of other sex workers to participate in the global sex industry.

Indeed, for these women, many of whom had already tasted the bitterness of factory work or labor as domestic maids, the risks and hardships reported by returning sex workers were but minor concerns compared to the possible payoffs.

These women perceive the traffickers as the only people who could help them cross a border and work abroad. To them, the source of their exploitation is not the traffickers, but the restrictions of their mobility and their illegal status.

Unlike the portrayal of them as passive victims of trafficking, these women exercise their agency to seek out people to help migrate and conduct sex work. To them, deportation by the state and immigration officials constitutes a bigger threat to their free movement and a new livelihood.

I argue that exclusive focus on raid and rescue not only thwarts group organization and health education, such as HIV/AIDS, but also strips away voluntary sex workers' livelihood strategies. By treating sex workers as victims, police raids, crackdowns, and rescue strategies force the removal of voluntary workers who may potentially assist true victims.

I recommend a framework that will ameliorate a partnership or alliance between migrant sex work communities and law enforcement to access the expertise of the sex workers' communities to help prevent forced labor and identify trafficked persons.

Thank you.

Chairman DORGAN. Dr. Zheng, thank you very much.

Next, we'll hear from Dr. Wan Yanhai. He received a medical degree from Shanghai Medical University School of Public Health. Upon graduation, he worked at China's National Health Education Institute from 1988 to 1994.

He then served on the staff of Beijing Modern Management College from 1994 to 2002. In 1994, Dr. Wan is the founder and director of the Aizhixing Beijing Institute, which works toward the prevention of HIV/AIDS transmission through community education and outreach.

Dr. Wan has been with us previously. We very much appreciate the work he has done and appreciate him coming today and for his presentation.

Dr. Wan?

STATEMENT OF WAN YANHAI, BEIJING AIZHIXING INSTITUTE AND EXPERT ON HIV/AIDS, HUMAN RIGHTS, AND CIVIL SOCIETY IN CHINA

Dr. WAN. Thank you for inviting me to speak here.

Our organization is actually an AIDS organization and we work mostly with vulnerable populations, like drug users, sex workers, gay and lesbian communities, ethnic minorities, migrant workers, people living with AIDS.

We are not an organization working specifically on human trafficking, but we have a chance to observe human trafficking issues in different migrant populations. So today I will talk about some cases.

First, I will talk about the drug user communities in Yunnan Province. We are now working with several drug user organizations in Yunnan, in the China-Vietnam border areas.

So for drug users, women drug users tend to become sex workers. Because both drug use and being a sex worker are illegal, they go underground. And because both drug use and prostitution are illegal, most people tend to be involved with criminal gangs or are protected by criminal gangs. So the women drug users might be sold by a criminal gang or be sold by the client.

Also, drug users, their family members might be involved in human trafficking. For example, in a family, if the son was using

drugs, the mother eventually, because of the economic burden, would become involved in human trafficking. So this is a case relating to drug use.

Also, in China, in the border region, China-Burma border, China-Vietnam border areas, a lot of girls cross the border into China.

The second case relates to ethnic minorities, specifically to Uyghur communities. In China, several ethnic communities are really affected by drug use and the Uyghur ethnic group is one such group.

In other cities, in many different cities, like Beijing, Guangzhou, Shanghai, there are many Uyghur migrants. On the streets, there are many homeless children, Uyghur children, and they were involved in petty crimes, mostly like stealing from people's pockets, and sometimes they get involved in selling drugs, and some of them are using drugs themselves.

In relation to trafficking, most trafficked teenagers are kidnapped by criminals from their hometown and are controlled by criminals in urban cities to serve the criminals on the street.

So when they were detained by police, because of culture or language issues, they know nothing. Those children, they know nothing. They don't even know who their families are, or where their homes are. So eventually, the police cannot do anything and just release them.

So those children were totally controlled by the criminals.

So this year, our organization worked on some of these cases. One such case involved a drug user who was sick with HIV/AIDS and also tuberculosis. He was really sick. He was kidnapped from his hometown.

The next group is the ethnic migrant workers, for example, in Yunnan. There are many migrant workers. Because of culture and language difficulties, they might be easily manipulated by criminals to send to—as kind of labor trafficking issues.

They were sent to some underground, black factories, and worked almost as slaves in these factories in cities.

The next case involves female sex workers. Two years ago, in Beijing, we had a kind of drop-in center for female sex workers in Beijing and we had a team to work among sex workers in Beijing.

Two years ago, in our drop-in center, there was a woman. She was sold from someone in Burma to someone in Yunnan and then sold again to someone in Guangzhou. Then she moved to Beijing. She has no official personal documents. So if she got sick, she couldn't receive government medical care.

In Beijing, among female sex workers, some of them manipulated by the criminals in some regions to find a job, to set up a family, these types of reasons, and then were controlled and some of them were forced to be sex workers, to be forced as a prostitute, and some might be gradually forced to be sex workers.

The next case involves male sex workers. In China, there is a growing, emerging, larger gay community. So in urban cities, there are many male sex worker brothels. For example, some managers rent an apartment or rent some rooms in hotels, and some managers come to some provinces where they could find a strong young man, and those young boys might be manipulated and then sent to the city.

The managers tend to control the environment and control the hotel and the money. So some boys are pretty young and they might be—so most of them are voluntary, but some are in a controlled environment. And the managers exchange sex workers a lot.

For people who become sick, they lack adequate medical care. For organizations, from the civil society perspective, we understand we could probably work with sex worker communities or drug user communities or the ethnic communities to handle the issues, but the general environment is not supportive.

So government tends to crack down on the general environment. That creates difficulties for us to work on trafficking issues. If we raise trafficking issues, the government might crack down on the general sexual environment, and that makes it totally impossible for us to work.

So from our perspective, if government could legalize some adult voluntary prostitution, it might create an environment which enables us to work on child prostitution or human trafficking issues.

Thank you.

Chairman DORGAN. Thank you very much.

Finally, we will hear from Patrick Radden Keefe. He has been a fellow at the Century Foundation, and the author of a book, “The Snakehead: An Epic Tale of the Chinatown Underworld and the American Dream.”

He holds degrees from Columbia, Cambridge, and the London School of Economics, and Yale Law School, and his writings have appeared extensively in major publications.

He is currently on leave from Century, serving as a policy advisor in the Office of the Secretary of Defense, where he focuses on non-state cross-border security issues.

Mr. Keefe, thank you for being with us today.

STATEMENT OF PATRICK RADDEN KEEFE, FELLOW, THE CENTURY FOUNDATION, AND AUTHOR OF “THE SNAKEHEAD: AN EPIC TALE OF THE CHINATOWN UNDERWORLD AND THE AMERICAN DREAM”

Mr. KEEFE. Thank you. Good morning. I’d like to start by thanking the Senator and the Commission for having me. It’s a privilege to be here. And I should also go into the standard disclaimer that I recently joined the Department of Defense, but anything I say here is my own view, doesn’t stand for the Department in any way, and, in fact, is based on work that I did before arriving there.

I want to approach this from a slightly different angle and talk about two different concepts that are distinct in some ways, but also sort of opposite ends of a continuum—human trafficking, on the one hand, and human smuggling on the other, and particularly the issue of free will.

I was so glad to hear Dr. Zheng talk about sex workers and the issue of free will and the idea that there are these misconceptions that can sometimes cloud our analysis of these issues; where you can find somebody who is in a situation which is fundamentally exploitative, a situation that, in some ways, we would think an individual wouldn’t want to be in, but is also in that situation out of free will; actually, in some instances, chose that situation; and, the

very tricky task for delineating when something that starts out as free will becomes a more coercive situation.

The person that I'm going to tell you about is not actually a victim of trafficking, but somebody who was a human smuggler; what, in China, is known as a "snakehead." This was a woman named Sister Ping, who I wrote a long article about in the *New Yorker* magazine, which I then developed into a book.

She was from southeast China, came to the United States in the early 1980s, and, for about two decades, was one of the most prolific human smugglers on the planet. And what she would do is bring people from her region of southeast China illegally via an extraordinarily sophisticated series of routes into the United States, where they would tend to ask for asylum, but as often as not, join the underground economy and work as undocumented workers in various industries here in the United States.

There is an interesting misconception about human smuggling, as it is practiced by the snakeheads. And I think part of the problem here is that often you'll hear human smuggling and human trafficking used interchangeably.

It's kind of funny for me. I was at great pains to make the distinction in my book and half of the reviews of my book referred to it as a book about human trafficking. I thought, "How did that work out exactly?" But I do think we want to be clear about this.

The misconception that is fairly prevalent in the United States is that what happens is that people who want to leave China approach a snakehead, pay a small down payment on a much larger fee. And the fees would astonish you. In the 1980s, it was about \$18,000 for passage; by the 1990s, it was about \$35,000; and, today, the industry is still going and it's about \$70,000 to get illegally from China to the United States.

Of course, people aren't able to finance that right away. So what they do is they pay a small down payment to the snakehead. If they make it here—and it's a big "if"—because people are flying by numerous airplanes and airports where they could get stopped if they're on phony documents. Often, they're in the hulls of ships. The ships can sink. They can be interdicted.

But if they make it to the United States, they owe the balance of that fee. And the misconception that you'll still hear today is that the migrants will get to the United States and then have to work as indentured servants for years, slowly paying off that fee.

But when I started my research and actually talked to people who had been involved in the snakehead business, they said, "Think about it from our point of view. It doesn't make any sense. I don't want to be chasing after dozens or hundreds of debtors in various stages of repayment."

So instead, what happens is people get over here and they're held for a 72-hour grace period, often at gunpoint, and given a telephone and they're told, "Call anyone you know. Beg, borrow, or steal, but I need the balance of the fee in 72 hours."

What happens is people then make phone calls and they borrow from people in China, from people in the United States, anyone they know, \$500 here, \$2,000 there. They coddle together the fee. They pay off the snakehead, and then they're released.

This is an interesting situation, because on the one hand, the voyage over here, the trip over here is very perilous. It's just fraught with risk and exploitation, and I'll give you one example. Sister Ping's most famous smuggling ship was a ship many of you I'm sure have heard of, the Golden Venture, which ran aground off of Queens, NY in 1993. And this is an area I get into a lot in the book.

When I started my research, I knew it was a ship which had a hull in which the passengers were. There were 300 passengers. The hold of the ship was about half of this room, if you can imagine that, with a much lower ceiling.

I knew it was a long voyage and I was trying to figure out—I'm not a sailor. I had no real benchmark for how long they had spent at sea and what it meant.

I thought, "Well, what are some famous voyages I can measure this by?" In 1620, the pilgrims came on the Mayflower and it took them 60 days on that ship. And in 1993, the Golden Venture was at sea for 120 days before it arrived here.

The circumstances were dire. Ten people died actually when the ship ran aground and they were trying to get ashore. And these types of stories are not unusual. They then get here, if they make it here, for the pleasure of having somebody point a gun in their face and tell them, "Pay the balance of my fee."

The difficult thing, though, is that when prosecutors over the years have tried to—have, say, busted up a safe house and found that gunpoint situation, that looks an awful lot like hostage-taking. So you try and bring it as a hostage-taking case.

But as often as not, they had trouble finding witnesses who would cooperate with them, because the passengers of the snakeheads would say, "Well, it wasn't really hostage-taking. This was a contract. I knew going in that I was risking my life. I knew I would owe this enormous amount of money when I arrived. I knew that they might hold me at gunpoint when I got there. But if I welch on my debt to the snakehead, then the snakehead will find that it's much more expensive to be in business, may go out of business, and that's a net loss for everyone."

So there's a very pragmatic way in which, for many of the people who undertake these journeys, this is something that's clearly legal and unquestionably exploitative in that they're paying much more than the actual costs of getting them here, and very risky and hazardous, but it's something that they go into with their eyes open.

To give you an example that illustrates that fairly well, I think—

Chairman DORGAN. You meant clearly illegal, didn't you?

Mr. KEEFE. Illegal. I'm sorry. Did I say clearly legal? Friday morning. There's little distinctions that matter so much.

To give you an example of how this played out in reality, when Sister Ping was eventually apprehended and tried in the southern district of New York in 2005, this was when I began looking into the story, part of what fascinated me was that she was one of the most wanted Asian organized crime figures at the FBI. It was a big landmark case, and yet, in Chinatown, in New York, she was considered a hero.

To this day, you can go to the eastern part of Chinatown, where the Fujianese, people from her region of southeast China, are from, and she's venerated. I went to China, to Fujian Province, and it was the same thing. People regard her not as an exploitative figure, but people often throw around the term Robin Hood to describe her. Harriet Tubman might have been a better analog in that case. And she got very wealthy doing this.

Nobody knows, and I think you're in hazardous territory when you're estimating about numbers in these underground economies, but the FBI estimates that she made about \$40 million doing this over the years. And as my book editor joked, that was all tax-free, so that's \$80 million to you and me.

This issue, I think, is one that we should be thinking about more than we are, because that circumstance, the human smuggling circumstance is something that happens not just in the Chinese context, but in the Mexican context. It happens throughout Asia, with destinations in Australia, Europe, Japan.

There is a global migrant worker population which is availing itself of these services to move from place A to place B, and I think that there's a lot of confusion at the policy level in government, at the law enforcement level, even in the United Nations, a sort of international organization level, in figuring out, "Are these people criminals, these people who are doing this with free will and engaging in these types of transactions, or are they victims? At what point do they go from being a criminal to being a victim, or could they be both?"

I'll give you two last little points and then wrap up. The first is that in some ways, this might be an academic question at this stage, at least with regard to China, in that there were huge numbers of people coming from southeast China to the United States from around the mid-1980s to around 10 years ago. Nobody knows, the estimates are all over the map, but you would often hear 50,000 to 100,000 a year coming via these services, and that's coming from one place in China, Fujian Province, which is a fairly small sliver of coast; it's sort of an anomaly. The vast majority of the Chinese who have come via irregular migration to the United States in the last 30 years have come from this one tiny place. It would be like if you went to China and all the Americans you met were from Providence, RI.

But the numbers started tailing off, because the economy in China picked up, and in southeast China, in particular, picked up to a point where there were factory jobs, plentiful jobs in the manufacturing sector.

Then since the advent of the economic crisis, that's changed and suddenly a lot of those factory jobs have disappeared. And within China, we've seen a big internal migration away from the east coast, with many people leaving, actually going back to the villages they left behind.

Internationally, it's funny, I had been predicting, "Well, if people are willing to go back into wherever it was that they left in the interior, they may be willing to venture abroad, because this is a very kind of integrated, international system." And sure enough, a few months ago, we started seeing these stories coming out that border officials in Nogales were perplexed because there was suddenly a

tenfold spike in the number of Chinese they were apprehending coming across through Mexico.

So I think that this remains a significant issue. And I'll leave you with one last trend where I think it's especially troubling, and this gets to something that the Senator mentioned earlier, which is children and the matter of children and the particularly, I think, devilish question of how you construe free will for a child.

I'm in touch with a number of pro bono attorneys who work in New York City with recently arrived Fujianese who have been smuggled in and one trend that they've noticed is that just in the last few years, they've started seeing a large number of kids who are sent by their families. Their families reach out to a snakehead, pay the fee, send the kid.

The kid doesn't necessarily want to come, and these are children who are 13, 14, 15 years old. The understanding is that they're going to get here and work—generally in the back of a restaurant—and send money home.

What some of these attorneys are trying to do is to say, "Look, this is actually—it might seem like a smuggling situation." The network is a smuggling network. You're paying a snakehead, who is a smuggler. But this is really a trafficking situation, because in what realistic sense can a 14-year-old child make that kind of determination and say "I want to go and risk my life to get over there and then spend my life doing that in the United States when I get there."

So I hope that that provides some stuff we can discuss, and thank you very much again for having me.

Chairman DORGAN. Mr. Keefe, thank you very much for being here today and sharing those thoughts. You've actually raised so many more questions than you've answered.

You have raised really interesting questions, as have some other witnesses, on the subject of smuggling vis-a-vis trafficking, vis-a-vis forced labor. And I was looking at something that I had written previously.

The International Labor Union reported in 2005 that at least 12.3 million people work as slaves or in other forms of forced labor.

Kevin Bales, an anti-slavery activist and author of the book "Disposable People," says that in 1850, a slave would have cost the equivalent of \$40,000 in today's dollars. Today, a slave working the coffee or cocoa plantations in the Ivory Coast, some as young as nine years old, will set you back as little as \$30 in today's dollars, because they're considered disposable.

Mr. Brown made the point that forced labor is a problem much larger, in terms of the number of people, than trafficking for sexual exploitation.

The four panelists who have spoken to us today raise important questions about what constitutes forced labor, what is free will, what is smuggling, and what is trafficking.

So thank you for making a really interesting set of presentations. What I'd like to do is call on Abbey Story for the first question. We have a microphone here.

Abbey Story works with our Commission. She's the researcher on human trafficking. Let me ask Abbey to go ahead and ask the first question. And then what we'd like to do is open this up and any

of you can come to the microphone and we'll begin a robust discussion.

As I indicated, I will have to leave at the end of the first hour and Ms. Charlotte Oldham-Moore will then convene.

Ms. Story? Thank you very much.

Ms. STORY. Thank you, Senator Dorgan. And I totally agree, I think you've all raised more questions than probably you answered today, but that will make for a very vibrant discussion.

So I have questions for all of you, but I'm just going to pick one for now. And if we have extra time later, maybe I'll come back up.

I just wanted to start with Patrick, if that's okay. You had mentioned the desperate circumstances that people are under in China and the risks that they take, as well as the incredible fees that they pay. Clearly, they're wanting to get out for many reasons, but we just focused on the economic reasons. Could you expound on what other factors you have noticed in your observations and your research that are pushing people to take such leaps of faith and risk to come out of China? Have you noticed any other factors driving this?

Mr. KEEFE. Yes. This gets, very quickly, into very tricky terrain in that people flee and often pay snakeheads to flee because they're experiencing persecution of one sort or another.

There are instances of religious persecution, Christians, members of Falun Gong. There are many instances of people having run afoul of the one-child policy, wanted to have multiple children, and the policy is enforced selectively and it really gets down not just to sort of province by province, but often village by village in terms of the local cadres. And so you have those instances, as well.

What makes this exceedingly difficult to parse is that even the economic migrants ask for asylum when they get here, by and large, and, generally, they are smart enough to know what the various criteria they should be touting are. And so you'll have a situation in which, say, in any group of 10 potential asylees who come from China, say, 10 of them are coming and they're saying, "I'm fleeing the one-child policy" and they're all telling stories that sound remarkably similar.

The excruciating aspect of this is that probably, and I'm making these numbers up, but if you had to generalize, nine of them are telling those stories because they're economic migrants and I think this is a good shot at getting asylum, and one is telling the story because it's true.

This makes the task of immigration judges and asylum officers incredibly difficult, particularly because they don't have a lot of resources and they're not in a great position to do fact-finding in terms of the situation on the ground.

So the brief answer to your question would be I think that there are a range of forms of persecution that are driving people to leave, as well, but parsing out exactly how prevalent those cases are is complicated by the fact that with the encouragement of the snakeheads, economic migrants will often come and, in their asylum process, drape themselves in the mantle of these types of claims.

Chairman DORGAN. Can I just ask? Those children who are born outside of the one-child policy, is there, in China, more of an incentive to coerce parents to sell their children at that point?

Do we see some of that? Has China's one-child policy been something that has incentivized the trafficking in children?

Mr. KEEFE. I personally don't have any information on that and wouldn't be the one to answer that, but there very well may be others in this room who could.

Chairman DORGAN. All right. Open for questions. Who has some observations or questions? Yes? Feel free to come to the microphone.

AUDIENCE PARTICIPANT. Thank you, everyone. I have a question for all panelists. Basically, we talk about human trafficking or human smuggling, whatever you call it, it's basically like economic criminal acts. But as we know, for some certain areas, like Fujian, this practice is particularly evident for sex trafficking.

So I was wondering if there are some social or political—not really political—social or cultural practices that's really encouraging human trafficking and smuggling. Thank you.

Chairman DORGAN. Mr. Brown, do you want to start on that?

Mr. BROWN. Before I answer that, could I say that in the empirical world, in the real world, and I'm portraying a bias here for facts, often, smuggling and trafficking get intermingled. So they are distinct legal categories, but you could imagine an indictment of someone for trafficking and smuggling.

The cultural and social fuel, to my mind, of trafficking in Southeast Asia and East Asia, which is, one, becoming one region in terms of an illegal labor market, is fueled by the subordination of women, the threat to societies, all of them, the legal status, the marginal legal status of internal migrants, and the marginal social status of internal migrants.

Particularly, China has made advances in addressing the *hukou* system, which operates to marginalize rural migrants, but it, as we in our own history know from reconstruction and slavery, it's one thing to abolish an inferior legal status as a matter of law. It's a far different thing to eradicate social aspects of discrimination or what Justice Douglas used to call a badge of slavery that survives the slavery itself.

So in our own system, we have complimentary social aspects that fuel the receipt and use of illegal labor in the United States, again, the subordination of women in this society remaining.

The inattention to labor law enforcement by governments and all of that works—those are the cultural and legal and social factors I would point to. But you can't have illegality in one country and not in another with trafficking.

Chairman DORGAN. Dr. Zheng?

Ms. ZHENG. I would agree with you in all those respects. I just want to point out one social-cultural factor which I think comprises the historic continuity of filial piety. I think in East Asia, and also in Southeast Asia, there has been this tradition, historic tradition that if you're a daughter, then you need to sacrifice yourself to support your parents.

Jonathan Spence's book on the history of modern China has reported that in the past, whenever there were dire situations, for in-

stance, some famines and so on, parents would be likely to sell their daughters for prostitution to support the parents.

In Southeast Asia, such as in Thailand, there has been research done that shows that daughters are encouraged by their parents to go into the sex trade, because it is believed that if the daughters do this for the parents, to support the parents, then their good deeds will trigger a good karma, meaning that in the next life, they will be born in a more wealthy family and lead a happier life.

So I think that's one of the reasons why we've seen a lot of these women putting themselves in danger to support their male siblings to go to school and also support the parents.

Chairman DORGAN. Rather than go down, in each case, to every presenter—

AUDIENCE PARTICIPANT. Can I finish my question? Basically, I'm trying to say, for Southeast Asia or Fujian, in the 15th century, we began to see Fujianese and Cantonese begin to migrate to Southeast Asia. So the trend is to go west, go west to the ocean.

So in the 17th century, 18th century, you began to have Fujian and others across Southeast Asia, and now you begin to see human trafficking into North America. So this is one case of historical culture or sort of practice. The other example or case I want to say is—

Ms. OLDHAM-MOORE. Sir, questions please, not statements. Okay?

AUDIENCE PARTICIPANT. Okay. So basically, there is some historical cultural practice to encourage human trafficking.

Chairman DORGAN. All right. Thank you very much. We'll just try to get as many questions out there and have a discussion of all of the questions.

You, sir?

Mr. DOWNEY. My name is Kiel Downey, and my question is primarily directed for Dr. Wan, although I'd welcome any of the speakers to interject their thoughts.

Dr. Wan, you said in your statement that the environment for civil society organizations in dealing with problems such as human trafficking, forced labor, drug use or the illegal sex trade was not supportive. I think those were your words.

But I also remember that in Senator Dorgan's opening remarks, he mentioned that the government recognizes all of these things as problems in China. So I'm wondering: Why would the government not welcome the help of civil society organizations in dealing with these kinds of problems? What would be the reason for the lack of support?

Thank you.

Dr. WAN. From our perspective, we mostly work on health issues and we manage community outreach with sex workers and managers. We keep good relations with the managers. We have difficulties explaining human trafficking in the sex industry, because otherwise we have a conflict. The managers may not welcome our work.

Another issue is that from a health perspective, there is a strong reason to push the government to not crack down against sex workers, enabling health workers, NGOs, to work to help the sex workers.

But if we were to work on human trafficking issues or trafficking issues, where arrests—also, like child prosecution arrests, the government will definitely launch a crackdown. So that is also a challenging issue.

From our perspective, we believe that to handle the criminal activities, the trafficking issues, the child prostitution, government force, police force is not enough. So we need to manage a working relation among the networks, among people like managers, sex workers, clients, all types of people.

So we need help from civil society. But in the current environment, it is typical for an organization like ours to work on trafficking issues, but we could observe all types of trafficking issues ourselves.

The government crackdown on our organization is mostly related to our funding issues and also our involvement in human rights issues involving those marginalized populations.

Chairman DORGAN. Yes, sir?

Mr. AGRANOVICH. My name is David Agranovich. I'm representing the Polaris Project. So I'll admit my knowledge is mainly based in domestic trafficking. So my question is mostly for Mr. Brown, but I'd encourage anyone else who might have input to weigh in.

I was hoping you would speak a bit to the institutional mentality in China toward labor in general, especially factory labor, where you see a lot of that exploitation, and also the actions that can be taken that the Chinese Government responds to the most; for instance, broadening the trafficking laws or taking a stronger stance on labor issues. Thank you.

Mr. BROWN. Well, I don't know if I can speak to a Chinese mentality or the government, and I'm not sure those—they're very complicated.

I do know that there are huge forces in China recently emergent that view creating a rule of law situation as important and see labor law looked at broadly as a key element of the rule of law, and that is quite a work in progress.

I also know that it is very difficult to keep apace in a legal sense, with a hyper-entrepreneurial system of trafficking. Mr. Keefe described, I think, very vividly how nimble these traffickers are and what the profit levels are on labor trafficking, and I imagine they are actually the same in sex trafficking.

The level of adaptability of these snakeheads and the agents and the escorts and the occasional people that just get a cell phone call and pick someone up from point A and take them to point B is astounding, and I think that's the inherent problem. And it's also a problem because Asia, where this is one labor market, you have all these jurisdictions.

So if the criminals are operating in Thailand, the victims are in China and the United States. How does any one person, any one local prosecutor ever get a wrap around that? And I think there is a real puzzlement not only in China, but in the United States, on how to deal with that, but there is a broad consensus that it's a growing problem and that it needs to be addressed with vigorous prosecution. That's why I say two countries, one problem, or three countries, one problem.

Ms. OLDHAM-MOORE [presiding]. Thank you, Mr. Brown. Please go ahead.

Mr. LEE. I'm Anka Lee, with the Commission. Actually, this question is for Mr. Brown. In the past couple months, we've seen stories and research out about the issue of child labor in China, and I think Senator Dorgan alluded to this in his opening statement.

But then you also talked about the issue with enforcement problems in China and we all know that there are some pretty good laws on the books that protect workers' rights. And we talked about this before, Earl, but how do you think the Chinese Government can—what can they do to make inspections of facilities more rigorous, in a way, to make inspections of these facilities more rigorous? And what role do you think NGOs and even the U.S. Government can play to facilitate this process?

Mr. BROWN. Well, I think—and I just want to take two seconds here to preach a little bit and I hope I'll be forgiven. But I think the problem of trafficking, as I say, depends on complimentary, parallel legal gaps in the sending country and in the receiving country.

So it's very hard to take a superior attitude and to instruct people about what goals they should attain. And it's such a common problem, but I think that because the trafficking and the labor market is so dynamic—Mr. Keefe, again, pointed to the down-tic in trafficking and smuggling—to maintain the distinction—as China factory work burgeoned and then with the economic downturn, again, the up-tic in labor migration into the United States and Europe from China.

So it's an extremely responsive market and no bureaucracy, no prosecutor, no labor ministry, no inspectorate—you can't begin to hire enough. I mean, we do have a job crisis and I would urge that the 30,000 unemployed lawyers in Manhattan be put to work on prosecutions and we increase our labor inspectorate.

But even if you absorbed everybody, you would never be nimble enough, and that's why you need grassroots NGOs, you need informal labor institutions, you need trade unions, you need all those labor institutions, and I'm sure this is true of the advocacy institutions on sex work, as well.

Ms. OLDHAM-MOORE. Thank you.

Mr. HEATLEY. Jesse Heatley. I have a question for Dr. Zheng.

Dr. Zheng, this year, fairly recently, the minister of public security announced a seven-month strike-hard campaign to focus on a number of crimes, including human trafficking.

Also, late last year and this year, the Ministry of Public Security has made those involved in sex work and prostitution a major focus of anti-crime campaigns.

In your opinion, regarding the policy rhetoric, have there been any changes to consider the rights of sex workers that are trafficked or any discussions on how authorities could be more considerate of sex workers' troubles?

Ms. OLDHAM-MOORE. Mr. Heatley, who did you want that directed to?

Mr. HEATLEY. Dr. Zheng.

Ms. ZHENG. Thank you. Someone can confirm, I don't think there has been any difference in policy from my original research, which was 1997. That's when I started my research.

As I had mentioned in my talk, my recommendation would be to create an alliance or partnership between the sex worker organizations and government officials to identify those victims who are trafficked into the sex worker or sex trade. I think that's the most effective and efficacious way to access the expertise, because these communities really—they know every neophyte. They ask them questions.

If people were forced into the sex trade and the sex workers who were voluntarily working there, they would definitely know ahead of time or before anybody else. So I think there is little understanding about these women's real lives by policymakers, by officials on top and social workers and so on.

But I think that's not only a problem in China. I think in many countries around the world, there have been these issues of confusion or conflation between prostitution and trafficking, thinking of these women as victims rather than thinking of them as agents, and that's the basis for collaboration between the two organizations.

Ms. OLDHAM-MOORE. Thank you. Now that Senator Dorgan had to step out, my name is Charlotte Oldham-Moore, and I'm just going to ask a quick question of Mr. Keefe.

As we have learned today, the problem with trafficking knows no cultural or geographic boundaries. We see it in many societies. We see trafficking in China, and certainly we see trafficking in the United States.

Our government has made serious efforts to address human trafficking. We now have a Trafficking in Persons Office at the State Department. We have implementing legislation, the Trafficking Victims Protection Act of 2000, and follow-on legislation. We've also had funding, for service T-visas, funding for NGOs to help victims here. And now we have Ambassador Luis de Baca, who is a former Department of Justice prosecutor, heading that office in the State Department; this is significant work.

But my hunch is that the United States could do a lot better than what we are doing now. Can you talk a little bit about what you've seen on the ground in New York City when you did your investigations, about the extent of implementation at the local level in the United States of U.S. antitrafficking laws. How we could do it better, just as we have talked about the Chinese doing their job better in terms of implementation at the local level?

Mr. KEEFE. Sure. I mean, it's a big issue and I would echo what you've said about promising trends in terms of the extent to which the United States is putting resources behind this, taking it seriously as an issue, coming up with mechanisms particularly to look after victims of trafficking.

One thing I'll say about how it plays out at the local level is that I think that the—when these types of businesses arise, that is, illicit, kind of ethnic businesses, which are often contained within a

particular ethnic neighborhood and often exploit the newly arrived in that neighborhood, they tend to catch law enforcement by surprise.

The case of the Fujianese in New York, in particular, I'm certain you can generalize this, to some extent, with whatever particular nationality or ethnic group you had in mind. But in the case of the Fujianese, what happened was that in the late 1980s, a series of gangs began to become much more prominent in New York and there was a lot of violence associated with that and the snakehead business was really getting up and going. So you had a lot of situations which were really the safe house situation I described earlier.

You have a family which calls the police and says, "My cousin is here. He's being held somewhere in Queens in a basement and they've said that they're going to cut his feet off if we don't pay up this amount of money in this amount of time."

Initially, the issue is that law enforcement didn't really understand where Fujian Province was. Chinatown had always been, in their minds, a predominantly Cantonese place. They didn't have any Fujianese speakers who spoke the northern Fujian dialect that most of these people did.

They were actually literally pulling cadets out of the police academy, because they could get—it was amazing. When the FBI got involved, they would start getting Title 3 wiretaps and not have anyone to listen to the wiretap. So these people could have been speaking in code.

It was also a matter of getting people to trust law enforcement. So one scenario that I heard again and again is that you have somebody who very reluctantly comes in and agrees to cooperate with law enforcement, testify before a grand jury and get an arrest. And what happens is that the person in question, this snakehead, the trafficker, the gangster gets arrested and then pays bail and gets out on bail and goes back into the neighborhood.

And particularly coming from an environment in China in which corruption is occasionally an issue in the police force, to the immigrant who hasn't been here very long and doesn't fully understand this scenario and is terrified about revenge of some sort, this spectacle of basically going in, cooperating, having the bad guy arrested, and then having him pay money and get out to come back into the neighborhood was terrifying.

There was just a big learning curve in terms of law enforcement getting to know the people in the neighborhood and in the community, learning the language and learning the culture, and then, also, the community sort of being educated about U.S. law enforcement and social services and community groups and who is there for you, who you can trust.

It goes to a point that's already been made, but I think that this is a slow effort and a kind of multi-pronged effort and it takes a while and you need to avail yourself of all the available resources, but I think that's the only way in this country we're going to be able to deal with this problem, not just at the level of top level policymaking, but really down on the ground, in the streets, in the communities.

Ms. OLDHAM-MOORE. Great. Thank you so much. Please go ahead?

Mr. MARSHALL. My name is Steve Marshall. I also work for the Commission. First, I'd like to say this has been enormously helpful in terms of trying to understand the problem, and it's obviously multi-layered, multiple dimensions in each layer, and it really is easy to conflate things and simplify them.

So my question is, basically, in China, not in the United States or another country, but in China, where is the breakthrough point on this? We have a very strong economic issue in this. We have societal issues, we have governance issues, we have legal issues.

But if we, over here, are watching what's happening in China and we want to understand which place is most important for change to take place—change that will have a ripple effect on how and whether this problem can keep continuing—what should we watch for? What should we try to encourage?

This, obviously, is something that any of the panelists might have something to say about. Thank you.

Ms. OLDHAM-MOORE. Anybody want to take that? Yes, Dr. Wan Yanhai.

Dr. WAN. I think there are many channels; government dialogue on policy dimensions is very important. And other issues, I think social processes and civil society are very important.

There are many migrant worker organizations around China in many larger cities. So they might be very good to reach out in a population. So labor organizations can work with migrant worker organizations, especially managing ethnic minorities. So there are many migrant worker organizations, but not many ethnic migrant worker organizations.

Recently, the Chinese Government, the ethnic committee, has passed some new policy to encourage social organization development from ethnic communities. I think it's time also to develop—to help develop migrant worker and ethnic minorities and women's organizations, especially among homogeneous populations. I think it's really important. Health organizations are also important.

So that is my perspective.

Ms. OLDHAM-MOORE. So you think what observers should be focused on is civil society and whether it's able to robustly operate and do its job on the ground in assisting victims.

Dr. WAN. Yes. For example, for our organization, we work with the broad community and the weaker ethnic migrant and drug user communities and sex worker communities, migrants. We can observe what's going on, but we also have a conflict in our laws, because we need to establish a good working relation with the network.

So our general purpose is for health, not only human trafficking issues, but we can push policy change. So one day, maybe the environment will enable us to work on the trafficking issues.

Ms. OLDHAM-MOORE. Okay. I think we're almost near the close of this session. I want to thank everyone for being here. I hope you will visit the CECC's Web site at www.cecc.gov. We have daily updates and you can sign up for our mailing list.

This has been an extraordinarily interesting panel. I want to thank Dr. Earl Brown, Dr. Tiantian Zheng, Dr. Wan Yanhai and

Mr. Patrick Radden Keefe for coming today. It's been an outstanding panel and I appreciate your participation. Thank you.
[Whereupon, at 11:29 a.m., the round table was concluded.]

