

**Testimony at the CECC Hearing in the US Congress
about "Urging China's Xi Jinping to Stop State Sponsored Human Rights Abuses"
-- Wei Jingsheng**

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After Xi Jinping took over power, much illegal government behavior that existed in the past is even more widely used now and is becoming the norm. I am only going to talk about one example, that is the illegal detention in the name of "residential surveillance".

In early 1994, after I met with Rep. Chris Smith and then Senator John Kerry, and before my meeting with then Secretary of State Warren Christopher, the Chinese police illegally detained me for as long as eighteen months.

According to China's Criminal Procedure Law, subpoenas cannot exceed three times in a row. After I was detained for three days, I asked them: either come up with a legitimate arrest certificate or release me. They said: the Procuratorate would not give them the arrest warrant, while their superiors ordered them not to release me, so they would use "residential surveillance", which does not need the approval of the Procuratorate. Further, they did not have to notify the family in accordance with the law, with no time limit.

I said: This is illegal detention. They replied: the highest authorities in the government had approved this conduct and they were just executing it with no responsibilities. As far as I was not detained in the prisons and detention centers, that would be counted as "residential surveillance".

Nineteen months later, when they put me on trial, I requested them to count 18 months of "residential surveillance" as part of my sentences. However, the court answered explicitly that because there was no legal basis for this time period, the 18 months cannot be credited into my sentence. According to the clear statement in China's Criminal Procedure Law, that would be called "illegal detention", yet that illegal detention was a detention that was approved by the highest authorities in the Chinese government.

This kind of illegal detention is now being widely used as jurisprudence in China. It is not only being used against political dissidents, but also widely against any Chinese citizen which the officials are dissatisfied with. Any level of the government can take advantage of this form of detention to illegally hold citizens they dislike, and then implement torture for the deposition they want. This "residential surveillance" forms the legal base for Xi Jinping to maintain the one-party dictatorship, and then carry out his personal dictatorship.

On the basis of this illegal "residential surveillance", the Chinese Communist Party launched the so-called "Double Designated System." The purpose is to force illegal detention of certain Communist members with restricted personal freedom by the Central Commission for Discipline Inspection of the Communist Party of China. What this illegal detention covers include the top leadership of the Chinese government and the Communist Party, even the Politburo Standing Committee which only has 7 members. That is to say, except for Xi Jinping, all people have the possibility to be illegally detained, including American citizens in China. This is downright personal dictatorship.

I suggest that when President Obama meets with Chairman Xi Jinping, he should make "restoring the rule of law, abiding by the law, abolishing all forms of illegal detention and torture" one of the main themes of their negotiations, rather than perfunctory generalities of human rights. When Xi Jinping visits the US Congress, lawmakers should also apply pressure to Xi Jinping on this issue, in order to promote human rights in China, as well as to protect hundreds of thousands of US citizens in China, and their rights and interests.

魏京生在美国国会中国委员会听证会上的证词

2015/9/18

在习近平执政后，过去就存在的许多非法的政府行为，被更广泛地使用，并且逐渐成为常态。我只提出其中的一项，就是以监视居住名义进行的非法拘禁。

1994年初，在我与史密斯众议员、约翰·克里参议员见面之后，特别是在与当时的国务卿克里斯多夫会见之前，中国警方对我进行了非法拘禁，长达十八个月。

按中国的刑事诉讼法，传讯不能连续超过三次。在扣押我三天之后，我要求他们：要么拿出合法的拘捕证书，要么释放我。他们说：检察院不给他们逮捕证，可是上级不让释放我，于是他们就使用了不需要检察院批准的监视居住证。而且他们不必按照法律通知家属，也没有期限。

我说：这是非法拘禁。他们回答说：最高当局批准了，他们只管执行，不负责任。只要不是在监狱和拘留所，就算监视居住。

十九个月后，在审判我的时候，我要求将这十八个月记入刑期。法院明确回答：这段时间没有法律依据，不能记入刑期。按照中国的刑事诉讼法的明确表述，这就是非法拘禁，是最高当局批准的、依法应该判定的非法拘禁。

这个非法拘禁的判例，现在正在被广泛使用。它不仅使用在政治异议人士身上，而且被广泛使用在任何官方不满意的公民的身上。任何一级政府都可以利用这个案例，非法拘禁他们不喜欢的公民，进而实施刑讯逼供。这为习近平维持一党专政，进而实行个人独裁奠定了法律基础。

在监视居住这个非法拘禁的基础上，中国共产党又进一步推出了由非司法机构执行的所谓双规制度。也就是由共产党委派的纪律检查机构，对党员进行限制人身自由的非法拘禁。这一非法拘禁的范围已经包括了中国政府和共产党的最高领导层，即只有七个人的政治局常委。也就是说，习近平本人除外，全体中国人都有可能被非法拘禁，包括在美国的中国公民。这是彻头彻尾的个人独裁。

我建议，奥巴马总统在与习近平主席会谈时，应该把恢复法治、遵守法律、取消各种形式的非法拘禁和酷刑，作为谈判的主题之一，而不是敷衍了事地泛泛而谈人权。在习近平访问国会时，议员们也应该就此问题向习近平施加压力，以便促进中国的人权进步，同时也保护几十万在华的美国公民和他们的权益。