

**Roundtable on Labor Rights in China  
Monday, March 18, 2002**

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**China's Labor Rights Problems**

In the race to the bottom, China is the bottom. The most extreme cases of misery and repression can all be found in China, thanks to the fact that its enormous and desperate population of unemployed have no choice but to accept starvation wages and suffer abuse. With well over a billion people, of course China has the world's largest labor force. In addition, despite the GDP growth rates that appear on paper, there are nowhere near enough jobs, so most of those billion plus people are barely surviving. In the countryside, where 900 million of those people live, the land cannot support the growing population. Even those peasants who had been getting by are now faced with competition from foreign agricultural markets, a result of expanded trade ties and China's recent entry into the WTO, and that will put tens of millions more out of work. These tens of millions will flee to urban areas to seek work. However, China's cities are also plagued with vast number of unemployed. Again as a result of free market pressures, many of China's state owned enterprises have gone out of business in recent years, and many more will be forced to shut their doors over the next few years. This has already put an estimated 30 million workers out of work, and according to a report by a major US investment firm, approximately 40 million more will lose their jobs over the next five years.

This may ultimately add up to 100 million or more unemployed and starving workers and their families. To make matters worse, these millions are unable to organize and mobilize for government protection or assistance; China remains a dictatorship where any attempt to organize workers brings imprisonment and possibly torture or even execution.

What does this mean for those workers who are lucky enough to have jobs? It means they face every type of labor rights abuse ever catalogued. Child labor? China has it. Last year, an elementary school in a rural area exploded, killing and injuring several children. The Chinese government tried to cover up the story, claiming that a disgruntled former employee had planted a bomb in the school. Soon, however, the real story leaked to the international press: the school was actually a fireworks factory, where young children were forced to work under extremely hazardous conditions. Worse yet, it was later exposed that this was far from the only "school" that was actually a factory staffed by child laborers. Shrinking resources for China's school districts, and a central government directive to the schools to find creative means of raising their own budgets, had apparently led many schools in China's countryside to set up their own businesses in recent years. Naturally, those businesses often turned to the immediately available workforce: children who were not going to be receiving an education, anyway. Although in the wake of the exposes, the Chinese government claimed it would be putting a stop to this policy, there may be hundreds or even thousands of such factories still hidden away in China's countryside.

Prison labor? China has it. Indeed it is China's official policy to punish prisoners in "reform through labor" programs. However, the Chinese government may be turning a pretty profit on prison labor, which means there is quite an incentive to keep people in prison. In 1998, a Chinese dissident who had been exiled to the United States revealed that while he was in a Chinese prison camp, he was forced to make

soccer balls for Adidas Corporation. Adidas management apparently had no idea that the factory from which it was sourcing was in fact a prison camp, and following this expose, claimed that it had not only stopped sourcing from that factory, but also instituted more rigorous policies to monitor all its factories in China. Unfortunately, thorough monitoring may be impossible, as many retailers have hundreds, or even thousands, of supplier factories in China and only a handful of monitoring staff. Equally unfortunately, other multinational corporations were apparently not particularly concerned by the Adidas example, and continue to source products from prison camps. Just two months ago, a Chinese refugee in Australia came forward to reveal that she was forced to produce toy rabbits for Nestle corporation while in a Chinese prison. Nestle's defense was ignorance of the conditions of its supplier. China's lack of transparency provides a very convenient shelter for labor exploiters.

One could continue for hours to detail the litany of abuses routinely suffered by Chinese factory workers. For the moment I will only note that my organization, the International Labor Rights Fund, has been in dialogue with a number of multinational corporations that are attempting to monitor their suppliers in China, and the companies themselves admit the following chronic problems: failure to pay minimum wage, failure to pay proper overtime, excessive hours of overtime, missing, blocked or locked fire exits, improper deductions from wages, and failure to document properly age of workers. I'd like to stress the fact that these are apparently common problems among that small handful of companies that are actually trying to do the right thing and monitor labor standards. One can only imagine the even worse abuses suffered in the factories of the vast majority of companies, that are not even trying.

## **US Consumer and Shareholder Concern over China**

That there are problems is undisputable. Therefore there are two real questions this Commission now faces: why should we care, and what can we do about it?

The short answer to the former question is: the US government should care because the US public cares. The average US citizen may benefit from labor repression in China in two ways. First, they benefit as consumers of cheap products. Second, they benefit as shareholders in companies invested in China. A number of recent consumer actions and shareholder actions highlight the reality that the average US citizen is not merely acting out of pure greed. Consumers care about the production conditions connected with the products they buy. Investors care about the ethical behavior of the corporations in which they invest. Both these groups care about human rights.

I'd like to discuss just a few recent actions targeting major US corporations as evidence of why neither US companies nor the US government can afford to ignore labor rights abuses in China. A recent expose of Wal-Mart's factories in China revealed excessively long working hours, failure to pay a living wage, and unsafe and unsanitary work conditions. As a result of these reports, the Domini 400 Social Index removed Wal-Mart from its portfolio.

A Hong Kong-based human rights group investigated Chinese factories producing for Disney corporation, and found a similarly long list of labor rights abuses. To quote the report, workers suffered "excessively long hours of work, poverty wages, unreasonable fines, workplace hazards, poor food and dangerously overcrowded dormitories." Not only have Disney stores been the targets of protests by concerned consumers, but Disney is now also facing a shareholder resolution for its poor labor rights practices.

Shareholders are also broadly concerned with the actions of US companies in supporting an extremely repressive government. In the past several months, AOL Time Warner has been the subject of media criticism, and has also faced a shareholder resolution, for its decision to invest in China. Despite the fact that the company's flagship Time Magazine has been banned in China, apparently the issue of freedom of

speech is not a concern for AOL Time Warner. According to a recent article in the Weekly Standard, "AOL is quietly weighing the pros and cons of informing on dissidents if the Public Security Bureau so requests; the right decision would clearly speed Chinese approval for AOL to offer Internet services and perhaps get a foothold in the Chinese television market."

There are numerous other examples of company practices in China that have generated shareholder concern here in the US; time constraints prevent me from describing these in detail, but I do want to call this Commission's attention to the fact that other US companies in the high-tech sector, including Sun Microsystems and Cisco systems, are also facing shareholder actions based on the exposure of those companies' work to assist the Chinese police to develop surveillance capabilities. Companies whose very existence can be attributed to an environment allowing the free flow of ideas vital to innovation, apparently have no difficulty profiting from suppressing those freedoms elsewhere. Fortunately, although Chinese workers cannot protest, US shareholders can.

## **Possible US Government Actions to Improve Labor Rights in China**

This is a panel about labor rights, so I do not want to venture too far into the overall area of human rights and corporate responsibility. However, I bring up these latter cases because I want to stress the importance of ensuring that US official rhetoric conforms with actual US policy. The US Government has claimed repeatedly in recent years that by opening up China to US business, we would be opening up China to democratic values as well. President Clinton made this point in speeches related to the promotion of normalized trade relations with China; and just last year, Secretary of State Colin Powell made a similar statement on the eve of a visit to China. Powell's statement claimed that US business were bringing management and worker relations concepts, including improved health and safety practices, to China. As all of the above examples illustrate, this is a somewhat controversial claim.

There are several things the US Government might do to truly promote better respect for labor rights in China. First of all, the US Congress should revive the longstanding idea of a binding set of human rights principles for US business in China. The US business community claims it is already promoting better workplace conditions and standards in China. As I've just noted, US officials are eager to be able to echo those claims. Therefore there should be no objection on any side to articulating clearly the labor rights standards which should be operational among all US businesses in China, and US companies should not have anything to fear from public scrutiny on these matters.

The idea of a legislated set of principles for US business in China is not new; many of you may be familiar with the "Miller Principles," first circulated by Congressman John Miller in 1991, and introduced also in the Senate by Senator Ted Kennedy. The Miller principles won both House and Senate ratification in the early 1990s but never passed both houses at once; it is time to update and reintroduce the principles, and to ensure that they contain a public review component, similar to that contained in the legislation authorizing OPIC.

Also on the subject of US Government rhetoric vs. reality, I note that a number of US officials publicly claimed that China's entry into the WTO would inevitably lead to better respect for rule of law in China. Apparently the very fact of WTO membership obligates China to implement some changes in its commercial laws, but this will not automatically lead to better implementation of all of China's laws. Indeed if evidence from other developing countries is any guide, increased trade ties may even lead to weakening of labor standards. The evidence from elsewhere in Asia illustrates that as countries compete to win foreign investment, they often adopt policies to keep their workforces weak and unorganized. To cite just a couple of examples, Bangladesh and Malaysia have laws on the books that prevent union organizing in export processing zones. The Cambodian government, when establishing its minimum wage,

first researched wages in neighboring countries to make sure that Cambodian wages were lower than wages in competing economies. Moreover, investors also encourage the depression of labor standards; in Indonesia last year, employers' associations pressured the government not to implement a minimum wage hike.

Why, then, should we think that WTO entry will lead to better enforcement of Chinese labor protections? Until there is domestic pressure for better laws, and better implementation of existing laws, we are unlikely to see this sort of upward harmonization. However, the US Government could be a positive force for change in this area, not by simply relying on WTO entry to solve all ills, but by advocating proactively for legal reform. The Chinese government recently passed both a new trade union act, and a new occupational safety and health law. While imperfect, both these new laws represent some improvement over previous laws, simply by virtue of the fact that they carry sanctions for violation. Reform of China's basic labor code is also under discussion; the US government should engage relevant Chinese government officials to encourage that labor code revisions be conducted with the input of international labor experts, to ensure that reforms bring China into full conformity with ILO standards. The US government can also encourage China to fully implement its commitments to the ILO's Declaration of Fundamental Principles and Rights at Work. While China's labor laws in many aspects already meet or exceed ILO standards, in two important areas, freedom of association and forced labor, they do not. Rather than ignoring ILO recommendations, as it has done for several years, the Chinese government should be encouraged to engage in a productive dialogue with the ILO on the subject of legal reforms that would bring it closer toward full compliance with core international labor standards.

The US government should also independently support rule of law initiatives in China. Not only the new trade union act, but also China's basic labor code are in need of clarification in several areas. Assisting local labor advocates to bring test cases is one way in which the US government could help bring about this clarification, and also strengthen the network of lawyers and legal advocates in China who are capable of taking on such cases.

The US Government should also advocate on behalf of those who are imprisoned for attempting to exercise their basic rights. In particular, there are a number of cases each year in which workers are jailed for attempting to organize unions and bargain for better working conditions. In the past few weeks, the case of the Daqing oil fields has been highlighted by the international press. At every opportunity, US officials should impress upon Chinese officials the importance of allowing workers to organize and bargain freely. In cases where labor leaders are detained, in addition to simply advocating for their release, US officials should make clear the basis on which we determine that such cases are not mere criminal cases, but violations of fundamental, internationally-recognized rights.

Finally, the 2008 Olympic Games in Beijing will present another opportunity to influence the Chinese government. It should not be a given that under any circumstances US will participate in Beijing 2008 games; there should be some markers of progress set down along the way. The Chinese government lobbied hard to host the games, and was extremely disappointed to have lost the bid for the 2000 games to Sydney. I mention this to highlight the fact that the Chinese government is invested in the 2008 games as a symbolic opportunity to show the entire world that China is a world leader, and thus the government is vulnerable to any pressure that might negatively affect that opportunity. On the other hand, I note with some disappointment that the International Olympic Committee squandered a valuable opportunity for influence by awarding the bid to China without noting even the few human rights issue directly connected with construction of the Olympic facilities. Already, Human Rights in China has noted that the Chinese government has displaced thousands of villagers to clear the construction site, and given the overall labor rights situation, I have no doubt that cheap migrant labor will be used for construction of the facilities, probably under extremely hazardous conditions. At a minimum we are obligated to raise concerns with

the development and construction of Olympic facilities under standards that conform with international labor norms; better yet, we ought to take advantage of this opportunity under the world's spotlight to push for better respect for fundamental freedoms in China.

Thank you very much for the opportunity to present this statement today.