

## **Witness Statement to the Congressional Executive Commission on China (12 September 2024)**

Dear Mr. Chairman, dear members of this Commission,

I make this statement at the suggestion of Peter Humphrey, a friend and former colleague also testifying to this Commission. I am a French national and a corporate-crime investigator of 25 years' standing with a long experience of Asia and especially China, where I lived and worked for many years investigating all manner of wrongdoing including fraud, corruption and human-rights abuses both on behalf of private clients and pro bono. I am fluent in the Chinese language.

I write this in my capacity of having helped Peter advocate for David McMahon, an American citizen imprisoned in China. Peter first contacted me about this in the fall of 2016, when he first told me of McMahon and his conviction in Shanghai three years previously for the alleged sexual abuse of children at the French School of Shanghai.

At the time, Peter asked me as a personal favor to review materials relating to McMahon's conviction in Shanghai and provide analysis and input on any potential actions that might help raise awareness of what Peter believed was McMahon's wrongful imprisonment. Repulsed by the routine Chinese-regime practice of imprisoning the innocent, I agreed to do this.

In doing so I came to believe – as Peter himself did – that McMahon was innocent of the charges levied against him, which seemed to me poorly supported by questionable allegations and evidence gathered in a sloppy and partial manner. My belief in McMahon's innocence has only been strengthened by his behavior ever since: despite spending over a decade in the hell of the Chinese prison system, he has always refused to make a confession even though it is the surest way to leniency and even release.

But I also became convinced that McMahon was denied due process at every stage, and perhaps even deliberately framed by parents who were utterly convinced of his guilt acting in collaboration with French government authorities. The materials I reviewed suggested deliberate collusion between the families accusing McMahon of sexual abuse in making sure he was convicted, for example, to the extent of arranging a so-called "secret meeting" to plot a legal offensive against McMahon and even contacting the FBI.

What also struck me was the sheer amount of effort that seemed to have been put in by the French consular authorities in Shanghai to help convict David McMahon. Not only did the French Consul-General in Shanghai get involved, but so did the Ambassador as well as the Association for French Schooling Abroad ("AEFE"), a French government organ under supervision of the French Ministry of Foreign Affairs. I understood from the materials given to me that French consular officials went as far as to threaten staff at the French School of Shanghai, including its principal, into withdrawing their support for McMahon and withholding statements that might have exonerated him.

This seemed to me unusual as well as highly improper. The consular authorities of a third country have of course no business actively prejudging the merits of a criminal case on Chinese soil, much less threatening witnesses or otherwise tampering with the investigation and influencing the outcome of the case.

What I believe really happened based on the materials at my disposal at the time is that the parents of the allegedly abused children, already deeply traumatized by their children's prior abuse at the hands of convicted sex offender Hector Orjuela at the same school the previous year and acting under the mistaken belief that McMahon was a friend of his, overreacted to their children's routine manifestations of affection to McMahon, a common reaction in parents of victims of sexual abuse. The parents then likely raised the matter with the school in terms brooking no opposition, and probably even threatened to go public.

The French School of Shanghai, like most French international schools, was affiliated to the French Ministry of Foreign Affairs and received partial funding from the French government. The reputation of French schools abroad is generally seen to be tied to that of the French state itself. It is clear that a second child

abuse scandal at the school in less than a year would not have served French interests as the Consulate understood them.

So I believe the French Consulate may have set out deliberately to build a case against McMahon and then delivered an entirely prejudged and prejudiced case to the Chinese government, which would have been only too eager to take receipt of a pre-packaged foreign scapegoat and be seen as a resolute enforcer of justice.

Needless to say, the Chinese regime's actual record in enforcing justice is wholly laughable. The overriding objective of the prosecution process in China is to vindicate its judiciary, which is controlled by the ruling Chinese Communist Party and operates entirely at the discretion of the executive. Nearly a hundred percent of the cases end in conviction and criminal lawyers are largely there for window-dressing, deliberately denied access to the materials necessary to mount a proper defense. No conviction in China is sound.

I believe that McMahon's accusers, some animated by a sincere belief in his guilt and others by a simple urge to head off a looming scandal, took full advantage of this fact. If that is indeed what happened, then I am deeply ashamed that the authorities of my country colluded in this dishonorable outcome. France was birthed in the struggle against despotism and then gave the world the first declaration of human rights. True French values – *my* values – prize the life of an innocent man above the reputation of an institution, let alone some warped conception of national prestige that would involve sandbagging the powerless in cahoots with a heinous dictatorship which still today harvests the organs of political prisoners and sells them to the highest bidder.

In conclusion, I am making this statement so that it might help a man, and others like him, who was denied the most basic due process and then left to rot in a prison manned by one of the world's worst autocracies. Yet it is only fair to recognize that for many years now and despite the always praiseworthy efforts of certain virtuous individuals, the record of Western governments as a whole in standing up for the rights of their citizens wrongfully imprisoned by dictatorial regimes has been poor. Beset by what the retired Australian general Mick Ryan recently called "strategic timidity", a polite term for cowardice, Western governments in the past generation have preferred to avoid awkwardness in their relations with outright tyrannies.

In rolling over for those despotic regimes in the past and taking their spurious convictions of our citizens at face value by default, I believe we in the democratic West have weakened ourselves and emulated the dictatorships. The most essential role of the state is to protect its citizens, and the most fundamental mark of a democracy is that it honors the inherent dignity of the individual. Unlike the tyrants of Russia and China who see their own people as nothing more than faceless kindling to be heaped on the bonfire of their twisted ambitions, democracies recognize that the individual is endowed with unique and unquantifiable worth. We recognize that the rights of the individual, even and indeed especially when naked against the lofty designs of the mighty and the hulking machinery of the state, are paramount.

Yet as things stand, unless a Western victim of the Chinese regime happens to be famous or connected, they stand little chance of their government rallying forcefully behind them. They too become faceless kindling. And it then befalls their distraught friends and relatives – ordinary people with ordinary lives and means, some of them ill, elderly or barely adults – to fight long, grim and lonely campaigns only to face the cold, slippery marble of their own government, at times so remote and Olympian that it can feel little different from the heartless mandarinat of Communist China. Meanwhile the months and years pass. And the victims and their loved ones can hardly be blamed for emerging from the ordeal as embittered about their own country as they are about the thuggish regime that mauled them in the first place. Being wantonly attacked is bad enough. Being left to bleed by the roadside is a moral injury.

I write this in humble hope for change. Many thanks to all of you for reading my statement and for choosing to work for this change.

Your sincerely,

Cedric Witek