

THE UNITED STATES AND HUMAN RIGHTS IN CHINA

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I am truly honored to have been asked to address you tonight. I am a lifelong Republican, but I am in a business that is unpartisan, in which I work closely with our “big D” democratic friends at the National Democratic Institute. I honor Richard Riley’s service as Governor and as Secretary of Education. *The Christian Science Monitor* says that many Americans regard Dick Riley as “one of the great statesmen of education in this century.” David Broder, columnist for *The Washington Post*, has called him one of the “most decent and honorable people in public life” which is no small feat in politics. The Riley Institute continues his legacy with a number of programs designed to do everything from promoting civic engagement to political participation. Education is basic to strengthening democracy in any country, whether it is Mongolia or Mexico or Mali – or the United States. So thank you to everyone at the Riley Institute for all you are doing.

I saw on the schedule something about my talking for an hour this evening. Since I am no longer in government, I won’t subject you to that. However, I do want to take some time away from your dessert to talk, as someone who has studied China since college, about the situation of human rights and democracy there. I first traveled in China in 1981, when bicycles were the standard form of transportation, there wasn’t a skyscraper to be found, and Mao jackets were still all the rage. Most recently, I’ve been leading the International Republican Institute (IRI) for all but three of the last 12 years, and we have worked in China for most of that time.

When IRI first began developing a China program in the early 1990s, I visited many different experts to talk about whether it was possible for an organization like IRI, which promotes human rights, the rule of law and democracy around the world, to work in China. It was not long after Tiananmen and there was tremendous skepticism about any effort to do democracy programming in a transparent, collaborative way inside the People’s Republic of China (PRC). However, discussion with some who had participated in the events of 1989 – like the people that you heard from this afternoon - encouraged us to think otherwise. They had confided to IRI over a series of discussions that they felt that their revolutionary approach to political reform in the People’s Republic had stumbled and that perhaps it was worthwhile to consider another approach. They would continue to be advocates from outside of China, but they encouraged IRI to support systemic reform within China and urged us to look at grassroots elections and legal reform as avenues for pushing for greater liberalization, transparency and accountability.

Our earliest programs in China were cutting edge for the time. You could count the international organizations – American or foreign – working in China on law and reform issues on one hand. Many of our fellow human rights and democracy groups thought we were crazy to be working inside China. Then, you could not mention the term “human rights” in a public or even private setting. No one outside or inside of China talked about establishing the “rule of law” and even the term “rule by law” had not yet made its way into the Chinese political lexicon. We supported

the Ministry of Civil Affairs' efforts to develop election guidelines and train thousands of village and township officials on the principles of a democratic election. We worked with the Finance and Economic Committees of the National People's Congress (NPC) to strengthen its ability to contribute in a meaningful way to the legislative drafting process and break the State Council's grip on law drafting. Overtime we expanded to training judges and lawyers on the implementation of new laws and then on providing legal aid to the indigent.

These kinds of joint projects on law and grassroots democracy are fairly familiar now and indeed there are now many other organizations doing similar kinds of work, including the Carter Center, our cousins at the National Democratic Institute, the European Union, the United Nations Development Programme (UNDP) and numerous other national aid and development ministries. The situation in China has also changed since IRI began working in China. The terms "rule of law" and "human rights" are used rhetorically these days even if the implementation of law and protection of human rights are not substantively in effect. The Chinese political landscape has changed in more subtle and significant ways as well, which I will address in a moment.

First, though, I would like to reflect for a minute on the ways in which I would have predicted, 10 years ago, that China might have changed. If in 1996 someone had asked me, "What do you think IRI will be doing in China in 10 years," I likely would have said the following:

First, I would have thought that we would have progressed from working on village elections to working on township elections. By the end of the 1990s, the pressure to expand elections to the township level was growing. In 1998, Buyun township in Sichuan province held one of the first experimental direct elections for township magistrate. The election itself was declared unlawful, but the results were allowed to stand, giving rise to expectations that broader township election reform might be permitted. Of course, this was not the case and expansion of direct elections to the township level stalled after Buyun. The discussion to expand direct elections to the township has been rekindled as part of the "Building up a new countryside" policy, but it is safe to say that the reality of expanded direct elections in China has at present failed to live up to the expectations of the mid to late 1990s.

If I'd been asked in 1996 what we'd be working on in 2006, a second area I would have cited would have been a much more invigorated National People's Congress. However, legislative reform has also not taken hold in the way that one might have expected from looking at discussions about the National People's Congress in the mid-1990s. With Qiao Shi at the helm of the legislature, and bold calls for the rule of law, the NPC dipped a toe cautiously into the waters of living up to its statutory role as the highest government authority in a series of votes in 1995 and 1996 where the government's approval ratings were not as high as in the past. This led to several articles highlighting legislative reform as a promising avenue for liberalization in China. After the March 1995 legislative sessions, *The Washington Post* talked about the legislature's "gradually increasing independence," and *The Economist* wrote that it was no longer the "obedient audience it used to be." Under Li Peng's chairmanship, however, the National People's Congress's independent streak waned. While delegates still use the annual meeting to express muted displeasure with government work and appointments, the NPC has not emerged as a touchstone for open debate nor representative government.

A third area I would have cited would have been in the area of legal reform and human rights compliance. For example, we might have predicted in the mid-1990s that by now China would have abolished re-education through labor or ratified the International Covenant on Civil and Political Rights. These, too, have not been achieved. To cite another example, the United States has been holding a human rights dialogue on and off with China since the early 1990s. But when I was Assistant Secretary for Democracy, Human Rights and Labor, I often felt that the Chinese must have thought I hadn't talked to my Clinton Administration predecessors about what they had requested of China.

I had. I knew that, at least early on, we were recycling the same lists of talking points for our human rights dialogues with China, in other words making the same requests on the same issues. In my first year, I had a frustrating sense that we were going round and round in a revolving door on many of these issues with little to show except for important prisoner releases – people like Jigme Sangpo, Ngawang Sangdrol and Xu Wenli. As my old friend John Kamm says, you can't have human rights without taking care of human beings, and we should not underestimate the importance of some of these figures – and others released since them, like Rebiya Kadeer – in China's past or for its future. But it is also important that the structure which puts these people into prison change, and when I introduced new issues along those lines, and got only limited results on issues old or new, we temporarily discontinued the dialogue.

So if we look at the predictions we might have made 10 years ago, whether expanding elections, strengthening the legislature, or abolishing re-education through labor, and compare them with what we are seeing today, we might conclude that the picture for human rights and political reform has not changed. Yet I am certain that the experts assembled in this room will agree with me that the political landscape in China has changed, and this is where we need to dig deeper to understand what has taken place in China over the last 10 years.

Year after year, we continue to try an assess progress by looking at whether the government or the leadership has or has not taken steps to improve human rights and expand reform. And year after year, we tend to find that while some steps are taken, such as the recent visit of the UN Special Rapporteur on Torture, the oblique indication that the Dalai Lama may be allowed to visit Buddhist holy sites in the PRC, or the addition to the Constitution of an amendment acknowledging the state's obligation to "respect and preserve" Chinese citizens' human rights, in general we conclude that speech is still restricted, religion is still not practiced freely, the press remains censored, the courts are not independent, criminals rights are not fully protected, workers cannot associate freely, and on and on.

This is an accurate assessment, but it is not a complete assessment, because it fails to look at ways in which China is changing with regard to human rights and liberty. In the last 10 years or so, the Chinese government has changed much less than we might have expected when it comes to democracy and human rights. The Chinese people, on the other hand, have changed greatly. The change in the consciousness of the Chinese people over the last decade, while difficult to quantify, is in my opinion profound. In a relatively short period of time, hundreds, if not thousands, of people have emerged to push the government to accept greater popular participation in civic and political life and to abide by the rule of law. We have seen the changes most dramatically in the expansion of civil society, the activism of the legal community to push

sensitive issues, and the small, but bold voice of some media outlets, including webbloggers, to challenge the regime on democracy and human rights issues.

There has been explosive growth of civil society organizations – 153,000 registered ones according to some statistics – and we can assume many thousands more that are unregistered. What are these organizations doing? Everything from environmental monitoring, to advocacy on women’s rights, to helping exploited workers seek back pay and compensation, to working with ethnic minority groups on development and cultural preservation issues, to working with people living with HIV/AIDS. There are groups that are trying to monitor the implementation of elections under Chinese law and groups that are using strategic litigation to advance particular rights issues. There is even a Chinese civil society group that put out a human rights report on China this year. The group is trying to find the balance between the overwhelmingly positive report put out by the Chinese government and the report put out by the United States, which raises a litany of problems and concerns, but is not able in its current form to put forward useful suggestions for how to improve the human rights situation in China.

The work of these civil society groups and individual activists is path breaking and inspiring. If you had asked me 10 years ago whether I would be able to hold in my hands a Chinese human rights report written by Chinese experts in China, I would have answered that it was highly unlikely. Frankly, 10 years ago uttering the term “human rights” in a roomful of experts in China would have ushered in an awkward silence and a quick attempt to change the subject. How has this change become possible? A difficult question to answer but it seems that the Chinese people are squeezing themselves through the small spaces opened by the government’s concessions on some of the same structural issues I’ve already mentioned. Giving villagers a limited but sustained ability to practice democracy has engendered a belief that those rights should be respected. Giving them limited access to courts on commercial issues has led to an expectation that an impartial system should be available for the adjudication of broader disputes.

The 2004 Constitutional amendment acknowledging the state’s ostensible obligation to “respects and preserves” Chinese citizens’ human rights has also opened the door for talented, brave activists in China to push the state to live up to its promise. In other words, the limited government concessions are leading to citizen expectations and action.

This is true most obviously in the area of legal reform where we see individuals, not the government, driving change. Many of you here are aware of the case of Chen Guangcheng, the blind, self-trained lawyer, who filed a suit on behalf of villagers who felt that they had wrongly suffered under the government’s implementation of family planning policies. Mr. Chen now sits under house arrest and his associates too have been detained. However, his efforts to make the government comply with its own laws are part of a larger force driving legal change in China.

Simply put, the legal community is incrementally pushing the rule of law one case at a time. Just last month, both the failed candidate in the Taishi elections in Guangdong province and AIDS activist Hu Jia announced that they would file lawsuits against local authorities to seek redress of their causes. In the Taishi case, Mr. Feng Qiusheng has assembled a team of lawyers to pursue a charge of poll-rigging. Hu Jia, on the other hand, is filing suit against the Beijing Municipal Public Security Bureau for his unlawful 41-day detention. These lawsuits may not make it into

court, but the fact that these individuals want to try to address their concerns through the legal system and that there are lawyers who will take the case stands in contrast to the situation 10 years ago.

The press has joined with nongovernmental organization activists and legal practitioners in pushing for change. The government and the party retain very tight control over the media. However, every now and then, we see glimpses that China's fourth estate is restless about its role as a party mouthpiece. In January the closure of *Freezing Point*, a weekly supplement of the China Youth Daily, touched off a firestorm in Chinese media circles and brought forth bold, public criticism of censorship in China. The *Freezing Point* editors issued an open letter after they were dismissed saying, "What do the people want? Press freedom, and the freedom of speech granted to them by the constitution; information that is valuable about the environment they live in, the investigation and uncovering of injustice, support for socially vulnerable groups against the powerful, and the sort of profound reflection needed to ensure the survival of the people."

The *Freezing Point* firestorm has subsided for now and there have been and will be additional instances of the press pushing the boundaries of free speech in China and the propaganda officials clamping down. But again, 10 years ago it would have been hard to predict that we would be seeing this kind of push for freedom from Mainland media outlets.

What I describe above is a small fraction of activists from civil society, the legal community and the press. While few in number, these individuals are voicing a frustration shared by many in China that political reform in China has lagged so far behind economic reform.

As I suggested when I began this talk, in the early 1990s there were many who doubted that the work of organizations like IRI could be meaningful in China. The Chinese government's record on democracy and human rights issues over the years may have improved at the margins here or there, but overall the picture has improved little compared to a decade ago when it comes to the government's willingness to protect human rights and promote freedom. What is markedly different is the growing desire of the Chinese people for liberty and rule of law. That is what is driving the growth of civil society, the activism of lawyers, and the outspokenness of journalists and bloggers.

Which brings me to one final point, since 1989, we have looked to the Chinese government to take steps to respond to international criticism of its human rights record. We have invested tremendous resources in raising these concerns both at the United Nations and in multilateral fora. These efforts are not in vain, but they are incomplete. We need to find better ways of working with the people in China who are committed to reform and they are the Chinese people themselves.

I am proud that as Assistant Secretary for Democracy, Human Rights and Labor during President George W. Bush's first term, I worked with Secretary Colin Powell and Congress to begin the first U.S. government program to support reform from the U.S. Senate, that program continues to grow. If we only look to the Chinese government to improve the human rights situation in China, we are likely to be disappointed. If we find ways to support average citizens in their efforts to speak

out against injustice and make the system live by its own laws and principles, I believe we will see greater success.

Now I'm often asked how I think the U.S. can "export democracy." My answer is that we cannot; ours is a peculiar version of democracy, different from that of our mother country, the United Kingdom, and theirs is different from the French system of democracy just across the channel. If we tried to export our democracy, no one would buy it; it is suitable only for our United States. But I do believe that there is a universal hunger for liberty, for freedom from repression. Time and time again, it is the citizens of a country that have made the difference in advancing liberty. We are seeing that hunger in China today. So we need to coordinate closely with others in the European Union and elsewhere – countries with different forms of democracy – to help those in China who want to see their country join the scores of countries that have become more democratic since 1975.

As I stand here today, it is impossible to predict what path political liberalization might take in China, if any. But as I look back on more than a decade of work on these issues, I can say that change is taking place. It is evolving in ways that we might not have predicted and cannot predict going forward, but it is evolving in ways that give me hope about the future of human rights, rule of law and liberty China.

Thank you.