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**Statement on China's Initial Report Under the International Covenant on Economic,
Social and Cultural Rights**
To the Committee on Economic, Social and Cultural Rights

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Thank you for inviting The Dui Hua Foundation to submit a statement on China's initial report under the International Covenant on Economic, Social and Cultural Rights (ICESCR). This is an important milestone, marking the first time the Chinese government has submitted a report on the implementation of an international human rights covenant. This is also the first time Dui Hua ("dialogue" in Chinese) has attended a United Nations meeting since being granted Special Consultative Status by ECOSOC. I would like to take this opportunity to introduce our work.

For the past 15 years, I and the foundation I lead have been engaged in a conversation with the Chinese government on human rights, an unofficial dialogue that focuses on individuals detained in "political cases (zhengzhi anjian)." Political cases are investigated by two governmental agencies, the Ministry of Public Security's Domestic Security Bureau (Gongan Bu Guonei Anquan Baowei Ju), formerly known as the Political Security Bureau—Zhengzhi Baowei Ju—or more commonly the "First Bureau" (Yi Ju), and the Ministry of State Security (Guojia Anquan Bu). Political cases are distinguished in police literature from "ordinary cases (putong anjian)." A recent book listing the crimes handled by the Public Security Ministry's Domestic Security Bureau lists 27 specific offenses, the most serious being those covered by the Criminal Law's chapters on "endangering state security" and "using a heretical organization to sabotage implementation of the law."

Prior to 1997, many of the offenses now covered by the Criminal Law's chapters on endangering state security and heretical organizations were included in the chapter on counterrevolution. Although counterrevolution was removed from the Criminal Law in 1997, individuals convicted of this crime remain in prison, and they are a special focus of Dui Hua's dialogue with the Chinese government.

While maintaining good relations with UN bodies, foreign governments and NGOs, Dui Hua enjoys a long-standing relationship of trust and openness with the Chinese government. Dui Hua does not hesitate to point out flaws in China's rights record, nor do we refrain from criticizing policies we disagree with, but we do so in respectful and constructive ways. We make frequent trips to China for meetings with our interlocutors, which over the years have included the Ministry of Justice, the Ministry of Public Security, the Supreme People's Procuratorate, the Supreme People's Court, the State Council Information Office, the Religious Affairs Bureau, and the

Ministry of Foreign Affairs. I have visited nine Chinese prisons and been allowed to interview recently released prisoners in Tibet.

A special feature of this unique NGO-government dialogue is our use of officially authorized “open source” publications and judicial documents. Dui Hua researchers comb libraries and bookstores in China and elsewhere to find cases of interest for entry into our database and inclusion in our lists. We are making increasing use of the Internet to examine court websites and other sources of information about the legal and penal systems. In libraries, we find such things as statistics on political crime, regulations governing religious activities, and accounts of political cases with names of unknown detainees. We find these materials in publications like municipal public security yearbooks, sentencing records of provincial courts, and local legal newspapers.

Taking advantage of good relations with governments and NGOs, we have obtained hundreds of official responses to inquiries about prisoners, supplementing the numerous responses received from Chinese government agencies to our own inquiries. During the last 15 years, I and my foundation have submitted prisoner lists to agencies of the Chinese government totaling more than 1,000 names. We have received written information on about half of them.

China’s Initial Report under the ICESCR

The report being considered today was written two years ago and is already in need of updating. While the report before us lists the impressive achievements of the Chinese government in the area of economic, social, and cultural rights, it adds little to our understanding of the serious problems arising from the break-neck speed of China’s economic growth, especially with respect to labor and minority rights.

There is no mention, for instance, of the 58,000 protests known in police parlance as “tufa shijian”—suddenly occurring incidents—that took place in China in 2003. The number of these protests—factory strikes, peasant demonstrations, outbreaks of ethnic violence—escalated in 2004, with as many as 10,000 protests taking place in Sichuan Province alone. How the police handled these expressions of popular discontent over perceived violations of economic, social, and cultural rights is not explored. Throughout the report, we read that the “lawful rights” of minorities and workers are protected, but what happens when the actions of minorities and workers are deemed unlawful by the police and the courts?

We can get some of the answers by conducting research into “open sources” and by engaging the Chinese government in a fact-based and results-oriented dialogue. Through such a dialogue we can obtain official accounts of prisoners like Rebiya Kadeer, released last month; Tohti Tunyaz, a Uyghur scholar still in prison; Sonam Dondrup, a Tibetan monk serving a 12 year sentence for “splittism”; and Yao Fuxin and Xiao Yunliang, two labor leaders imprisoned in Liaoning. We can read about a workers’ protest that shut down a power plant in Yunnan Province for 11 days or about police action to break up unregistered religious gatherings in Xinjiang. We can study prison regulations governing the treatment of prisoners convicted of illegal religious activity. We can even get statistics on police intelligence gathering as it relates to strikes and other manifestations of popular discontent.

The vast body of officially authorized, open source materials relating to China's implementation of the ICESCR—largely unexplored—can supplement both the Chinese government's own report and the reports of such bodies as the International Labour Organization, trade unions like the ICFTU, and NGOs like China Labour Bulletin. I encourage the Committee to do a better job collecting and analyzing open source publications and documents, not only when considering China's reports under the ICESCR but also when considering the reports of other States Parties under human rights instruments.

I would like to close by briefly discussing two recent developments that bear on the Chinese government's treatment of individuals imprisoned for political and religious activities judged by courts to be against Chinese law, including those related to the exercise of economic, social, and cultural rights.

Access to Parole and Sentence Reduction: Non-Discriminatory Treatment

On January 25, 2005, Dui Hua received a communication from the Chinese government. The communication consisted of four lists of prisoners who had recently been granted or were being considered for parole or sentence reduction. Most of the 56 political prisoners about whom information was provided were unknown outside of China, and most of them are still in prison. This is believed to be the first time that the Chinese government has volunteered information on prisoners whose names are not known outside of China. This development has implications for efforts by international bodies to gain access to places of detention in China. Unless the Chinese government is willing to disclose the identities of prisoners whose names are not already known, the likelihood that agreements governing access can be achieved is small.

The Chinese government took this step because it wished to demonstrate that prisoners serving sentences for counterrevolution and endangering state security are not discriminated against when it comes to sentence reduction and parole. Anecdotal evidence, sketchy statistics, and somewhat dated regulations suggest that this has not been the case in the past, so the Chinese government's clarification, and its willingness to continue providing information on sentence reductions and paroles to illustrate this more lenient policy, is very welcome.

International Observers at Chinese Trials

On his tour of the United States last year, the president of China's Supreme Court, Xiao Yang, stated that foreigners can attend Chinese trials except those involving state secrets, juveniles, or sensational crimes like sexual assaults. I followed up during two recent trips to Beijing. In meetings with representatives of the Supreme Court, I asked to attend a trial of workers accused of "disturbing social order" or "endangering state security" by organizing strikes or other protests. I was told that no such trials were being held in Beijing during the period of my stays, but that in principle the Chinese government does not object to me or others observing such trials. The international community needs to follow up on this opportunity.

During my meetings, I also asked whether or not foreigners can obtain copies of verdicts from Chinese courts. I specifically asked for the verdict in a trial of individuals reported to have been sentenced to prison for attempting to organize an independent trade union. My request is under consideration.

The Dui Hua Foundation

Dui Hua hopes that the Chinese government will take more steps to enhance transparency and step up its cooperation with the United Nations, other governments, and NGOs in the common effort to protect and respect human rights, and that the fruits of these efforts will be apparent in future reports of the Chinese government on its compliance with the ICESCR.