

Congressional-Executive Commission on China

Law in Political Transitions:

Lessons from East Asia and the Road Ahead for China

Tuesday, July 26, from 1:00 PM to 2:30 PM

Room 419 of the Dirksen Senate Office Building

Senator Chuck Hagel

Chairman, Congressional-Executive Commission on China

Opening Statement

The Congressional-Executive Commission on China meets today to assess the development of the rule of law in China. The Commission will also examine the role of legal institutions in South Korea and Taiwan to determine what lessons there may be for reform in China.

Over the past twenty-five years, China has worked to build a market-based economy and rebuild a legal system and legal institutions that were destroyed during the Cultural Revolution. Today, we can see in every Chinese province the effects and achievements of market reforms, forward-looking economic changes, and legal development. But China's political

system continues to leave most Chinese people without a voice in their own political future, and legal institutions have yet to provide a reliable check on the arbitrary exercise of government power. Popular frustration, especially with official corruption, seems to be growing. Without effective administrative, legal, and political channels through which to redress their grievances and protect their economic and civil rights, Chinese citizens often have little choice but to take to the streets. Such a result can only undermine China's progress.

China's legal system will be an important foundation for stability and development in that country. As Chinese scholars and officials have worked to reform China's legal system, they have demonstrated a consistent willingness to consider the characteristics and development experiences of other legal systems. Two neighboring legal systems, those of South Korea and Taiwan, provide particularly relevant examples. China today faces many of the same problems and decisions that South Korea and Taiwan faced in the 1970s and 1980s. As reform in these areas progressed, legal institutions provided a stable platform for the resolution of disputes, the enhancement of the protection of human rights, and the development of transparent and fair administration of government.

The U.S. government supports the efforts of many Chinese citizens and government officials to reform their legal system and build a more transparent, fair, and participatory society. Political change is complex and imperfect, and China's future will be up to the Chinese people. This Commission has consistently recommended to Congress and the President that the United States increase funding for legal exchange with China and actively engage China in legal cooperation. As today's statements will suggest, such efforts need not be purely bilateral, and may benefit from incorporating the expertise and experience of scholars from South Korea and Taiwan, whose legal development models are in many ways more relevant to today's China than those of the United States.

To help us better understand current trends in the development of China's rule of law and the experiences of South Korea and Taiwan, we turn to our witnesses.

Principal Deputy Assistant Secretary of State, Gretchen Birkle, joins us from the Bureau of Democracy, Human Rights and Labor at the State Department, to present the U.S. government's view of rule of law in China. Prior to joining the State Department, Ms. Birkle worked for more than five

years at the International Republican Institute. As deputy director for the Eurasia division, Ms. Birkle managed IRI's activities in nine countries of the former Soviet Union.

After Ms. Birkle, we will hear from a distinguished panel of private experts who will share their expertise. Professor Jerome Cohen of New York University Law School will give us an overview of legal reform in China and help us tie the South Korea and Taiwan experiences to China. Professor Cohen is also an adjunct senior fellow for Asia at the Council on Foreign Relations, a lawyer with the international law firm of Paul, Weiss, Rifkind, Wharton & Garrison, and a leading expert on the Chinese legal system and international relations in East Asia.

Professor John Hsieh will provide perspectives on Taiwan. Professor Hsieh teaches in the Department of Government and International Studies and is Director of the Center for Asian Studies at the University of South Carolina. He has written numerous books and articles on Taiwan's democratic transition and is a leading expert on this subject.

Professor John Ohnesorge of the University of Wisconsin School of Law will discuss the role of law and legal institutions in South Korea's

democratic reform. Dr. Ohnesorge also serves as Assistant Director of the law school's East Asian Studies Department, practiced law in South Korea during several years of democratic transition (1990-1994) and is an expert on Korean law. He is the author of "The Rule of Law, Economic Development, and the Developmental States of Northeast Asia."