Testimony of Dr. Sophie Richardson, China Director, Human Rights Watch, before the US-China Economic and Security Review Commission

Hearing on China's Information Controls, Global Media Influence, and Cyber Warfare Strategy, May 4, 2017

Chairwoman Bartholomew, Commissioner Wortzel, and members of the Commission,

I'd like to thank the Commission for its ongoing attention to human rights abuses in China.

Human Rights Watch has written extensively about restrictions on freedom of information in China for the past two decades, and we welcome the opportunity to address trends in domestic information control under Chinese President Xi Jinping's administration.

Since President Xi came to power in March 2013, the Chinese government has fully subdued the few outspoken domestic print media organizations, and stymied the flow of politically sensitive materials from Hong Kong into the mainland by crushing the Hong Kong publishing industry. It has deftly reined in access to the internet, jailing bloggers who promote progressive, pro-democracy values, and forcing the rest into self-censorship. It has nurtured a massive domestic social media platform – while blocking all foreign competitors – in which the ability for users to spread information is very limited and surveillance is pervasive. It has increased enforcement of real-name registration that makes online anonymity near impossible. It has also blocked an increasing amount of foreign content, and intensified its clampdown on those who provide or use tools to circumvent the blockage.

Nevertheless, numerous Chinese writers and activists have continued to speak out against the increasingly authoritarian government and unwaveringly advocate for freedom and democracy in China.

Xi Jinping: Chinese media "must bear the surname 'party'"

The Chinese government has tightly controlled its domestic media ever since the founding of the People's Republic in 1949. There have been virtually no independent newspapers, media companies, or publishing houses in China. In the 1990s and 2000s, a handful of domestic newspapers and magazines – though still state-controlled – were allowed some space to critically discuss issues related to the government's performance, but such space has significantly diminished in the years since Xi came to power. In early 2016, during a tour of several state media outlets, Xi declared that Chinese media "must bear the surname 'party'" – meaning the Chinese Communist Party – and demanded their absolute loyalty.

Southern Weekend, a newspaper based in Guangdong province, was for many years well-regarded for its investigative stories and editorials critical of government policies, and was widely popular among liberal intellectuals. But in the past several years, the government has exerted more control over the paper, appointed managers who are Xi loyalists, and forced out outspoken journalists.

In early 2013, *Southern Weekend*'s journalists and supporters staged a protest against the Guangdong government's decision to censor a New Year's editorial calling for constitutionalism. Three activists – Guo Feixiong, Liu Yuandong, and Sun Desheng – who joined the peaceful protest outside the newspaper's headquarters were later sentenced to six, three, and two and a half years in prison respectively for "assembling a crowd to disrupt public order." In March 2015, without giving prior notice to most of the staff at *Beijing News*, the Beijing propaganda department suddenly appointed two of its officials to lead the influential Beijing-based liberal daily. And in 2016, Beijing authorities sacked or demoted several top editors of *Yanhuang Chunqiu*, a liberal-minded history magazine with the backing of relatively liberal Party elders, leading to its closure. As a result of this heavy-handed censorship, the space for pro-reform voices in domestic media is now almost nonexistent.

Crumbling Hong Kong publishing industry

Because of the Chinese government's stringent control over domestic publishing, Hong Kong had become a place where mainland Chinese could purchase politically sensitive books and magazines. However, a series of jailings and alarmingly, cross-border abductions, have seriously undermined the industry and represent a blatant violation of free expression, the likes of which have never been seen in Hong Kong.

In October 2013, a Shenzhen court sentenced Hong Kong-based publisher Yiu Mantin to 10 years in prison on politically motivated charges of smuggling. Prior to his arrest, Yiu planned to publish a biography called "Godfather of China Xi Jinping," which was authored by a well-known Chinese dissident. In 2014, a Chinese court sentenced publisher James Wang, a US citizen, and his Chinese colleagues, for selling magazines about Chinese politics to mainlanders. Wang was sentenced to over five years in prison.

In 2015, in a case that attracted global attention, the Chinese government forcibly disappeared five Hong Kong-based booksellers. Among them, Lee Bo, a British citizen, was abducted in Hong Kong, likely by Chinese security agents. Gui Minhai, a Swedish citizen who was abducted from Thailand, remains in detention. Before their forced disappearances, the booksellers planned to publish a book on Xi Jinping's love life, though the two had also published many other titles.

The abductions were felt deeply by all actors in the Hong Kong publishing industry. It created such fear that, as *the Guardian* put it, "bookshops have closed. Publishers have left. Authors have stopped writing. Books have been pulped. Printers are refusing political works. Translators have grown weary of being associated with certain topics." It is estimated that over 80 percent of Hong Kong bookstores – and almost all the ones occupying store-front properties – are run by three major chains controlled by the Chinese government. The assault on Hong Kong's small minority of independent publishers and booksellers further deepens China's grip on the entire industry in Hong Kong.

Intensified crackdown on bloggers and further criminalization of online speech

With the advent of the internet, there was once hope that it would bring increased freedom of expression to China, as anyone could publish instantly and with anonymity. As imprisoned Nobel Peace Prize Laureate Liu Xiaobo put it, the internet is "God's gift to China." Unfortunately, Beijing quickly caught up, created one of the world's most sophisticated internet

censorship and surveillance systems – colloquially known as the Great Firewall – and has been refining the system ever since. During the Hu Jintao administration from 2002 to 2012, there appeared to be some online space – especially on the microblogging platform Weibo – in which people could discuss certain social and political issues critically. For example, netizens' heated online debates and fierce opposition contributed to the government's decision to drop Green Dam, a web filtering system the government proposed to install on computers in 2009. However, such space has narrowed significantly since Xi came to power.

Forty years into the reform era, and at a time when other kinds of information can move freely and instantaneously, people continue to land in jail for peaceful criticism of the Chinese government, including a slew of influential online activists. Among them, Charles Xue, a businessman who had over 12 million followers on Weibo and was known for his commentaries on social issues such as the rights of children and migrant workers, was detained in September 2013 for "soliciting a prostitute." In January 2014, Uyghur scholar Ilham Tohti was arrested and later sentenced to life in prison on charges on "separatism" in relation to a website he founded that discussed China's policies on ethnic minorities. Pu Zhiqiang, a prominent human rights lawyer, was detained in May 2014 for over a year on charges of "inciting ethnic hatred" and "disturbing public order" for his online posts.

In 2013, the Chinese government issued a judicial interpretation that expanded existing laws to punish "online rumors." Social media users who post libelous information viewed more than 5,000 times or forwarded more than 500 times can be charged with defamation and jailed for up to three years. Anyone sharing false information deemed to cause "serious social disorder" can be charged with "picking quarrels and provoking troubles," which carries a maximum five-year prison term. In 2015, the government revised the criminal law to impose a punishment of up to seven years in prison for "spreading rumors" about disasters or diseases. The vagueness of the provision means that individuals doing nothing more than asking questions or reposting information online about reported local disasters could be subject to prosecution.

The crackdown on influential bloggers and the criminalization of social media activity has greatly chilled political discourse on Weibo. Many prominent bloggers became less active and some withdrew from social media altogether. For example, Wang Xiaoshan, an actor who had over one million Weibo followers told AFP, "I feel the pressure, I am more careful about posting about any kind of topic." He Weifang, a well-known law professor and public intellectual, closed his Weibo account by posting a classical painting of a poet who retired from government service in protest against corruption.

The rise of WeChat, a less open social media platform

During the Xi era, many social media users have shifted away from Weibo to WeChat as a result of heavy censorship on Weibo. WeChat, launched by Chinese tech giant Tencent in 2011, is a mixture of social media and messaging services. Its users can only see posts by individuals who have friended them, and none of these posts are directly sharable or searchable. Because of these unique designs, information cannot be circulated as widely and quickly on WeChat as it is on Weibo, which is a more open platform. The shift creates a situation in which users may feel less constrained, but their messages have a much more limited audience.

Furthermore, WeChat is still subject to significant censorship. Technical research conducted by Toronto-based Citizen Lab has found both keyword and image filtering on the platform, particularly with group chats, with no transparency for users when information is restricted. WeChat's censorship raises concerns about surveillance, too. Previous investigations into TOM-Skype, Microsoft's former mainland Skype product, found that chat messages containing sensitive terms were logged and sent to a remote server, raising questions around whether WeChat messages are subject to similar surveillance. In September 2016, the Chinese government issued a new notice explicitly allowing collection of social media messages and contact lists for use as evidence in investigations.

Enhanced enforcement in real-name registration and surveillance

The Xi administration has continued to push for real name registration. The policy has been most successful with mobile phone users, such that it is nearly impossible to purchase SIM cards that are not tied to any ID number. In September 2013, the Ministry of Industry and Information Technology (MITT) imposed regulations that require all phone users to be registered with their real names, and in August 2016, the MIIT issued a notice ordering China's telecom companies to disable services to any accounts that are not real-name registered by June 2017. After the notice was published, users across the country started to receive text messages asking them to bring their ID cards to service centers to register their cell phones. At the same time, the government has also pushed social media and messaging apps to require users to tie an ID card or mobile phone number to their accounts; although it is possible to use these without registering one's ID, many functions increasingly important for daily life in China, such as those involving online payments, require such registration.

Real-name registration is an effective mechanism to surveil and censor users. As now-prosecuted human rights lawyer Li Heping said to Radio Free Asia in 2011, "The reality [in China] is that for any message you post on Weibo, your real identity can be found. But ordinary citizens might not know this. They think if they use a pen name, police would not be able to find them. They have a sense of [false] security, thus they dare to speak up… If using real names, some people likely will not dare to speak."

In late 2016, China passed the Cybersecurity Law, which further strengthened surveillance. The law requires companies to restrict online anonymity, to store users' "personal information and other important business data" in China, and to monitor and report to the government undefined "network security incidents." While there are no truly enforceable privacy rights in China and internet companies are already expected to do all these, enforcement has been uneven. Requiring companies to do so in a specific national law may reduce the leeway and differing level of implementation among companies, which has been exploited by internet users to get their message out despite censorship.

The Cybersecurity Law is part of a raft of security laws passed by the Chinese government, along with the National Security Law and the Counterterrorism Law, that are aimed at ensuring all information technologies are "secure and controllable." The Counterterrorism Law is also particularly worrisome as it requires companies to help decrypt information per requests by law enforcement, and its vague and broad provisions, including the definition of terrorism, allow police to request such information in a wide variety of situations.

Foreign websites blocked, Virtual Private Networks (VPNs) increasingly disrupted
While the government has increased its control on the flow of domestic information, it also enhanced its ability to fend off information coming from outside of China. During the Xi era, the Great Firewall has blocked an increasing number of news and social media websites, such as the *Economist*, the *Wall Street Journal*, and Instagram. In January 2017, American tech giant Apple removed the *New York Times* app from its digital store in China, acting on orders from the Chinese government. Apple had previously removed other apps associated with media organizations and a bookstore that distributed works about Tibet and Xinjiang.

In order to get around the Great Firewall to access prohibited information, Chinese netizens have to use software such as Virtual Private Networks (VPNs). However, VPNs have increasingly become unreliable as the Chinese government has stepped up efforts to block or disrupt VPN services. And this year, the government issued new rules to increase its legal controls over the use of VPNs.

In January 2017, the MIIT issued regulations that require all providers of circumvention tools in China to be pre-approved by the ministry, which effectively puts most of the country's providers of VPNs in violation of the law. By only allowing government-approved VPN providers – in other words, providers that are compliant with censorship and surveillance orders from the government – the Chinese government will certainly be in a better position to monitor VPN traffic and control VPN users.

In March, the government of Chongqing, a city of about 50 million in southwest China, made public a regulation that bans unauthorized use of internet circumvention tools in the city. Anyone – from individuals to companies – who skirts the Great Firewall will be ordered to disconnect and receive a warning. Those who make a profit while using circumvention tools will be fined.

The Chongqing regulation is unprecedented as it places a blanket ban on the use of VPNs and other circumvention methods used to connect to the global internet. Previous regulatory efforts to rein in the use of such tools have focused on providers and left individual users alone. It is unclear whether other local governments will follow suit.

The mere use of VPNs is already the basis of prosecutions in Xinjiang. In October, a man in Changji city was reportedly detained for "downloading violent and terrorist circumvention software," which turned out to be a VPN. In February, a man in the capital Urumqi was detained for 15 days for using a VPN to visit websites perceived by the authorities as hostile. The restive northwestern region leads the country with respect to tech-based controls on the freedom of expression. In July 2009, the internet in Xinjiang was cut off entirely for several months in the wake of ethnic rioting in Urumqi.

What the Xi administration has done to control information is not necessarily unprecedented, but by heavy-handedly patching the cracks in China's censorship apparatus, the Xi government has effectively eliminated the pockets of free speech that had emerged during China's three decades of reform era.

Citizens' continuing fight for freedom of expression

While facing a myriad of difficulties and risks in obtaining and sharing information, many Chinese citizens nevertheless persisted, "reincarnating" themselves on Chinese social media every time their account were censored. Wang Wusi, who is known on WeChat for his satirical commentaries on Chinese politics and society, has had more than 20 accounts removed due to his unremitting criticisms of the Chinese government. Police have gone so far as to harass his wife, his parents, and his wife's parents. But Wang is still publishing, and said, "I had been worried [about being jailed], and tried to avoid sensitive topics, but it has become useless because the government just has so many sensitive spots. Then I decided not to think about whether and when I will get jailed, because it is not like if you think about it, you will be able to avoid it. What ought to come will come."

Despite the looming danger of using VPNs, many China-based activists are still active on Twitter, speaking critically or making fun of Xi Jinping and voicing their support to fellow activists. Among them is Murong Xuecun, a Beijing-based writer. Murong, in an interview with the Committee to Protect Journalists, said, "In the past several years, I have often envisioned such a scene: a group of police officers break into my home, handcuff me, and take me away. After living under the shadow of such a scenario for years, now I feel I can handle it. I will not give up on my writing. I will not self-censor. I think I am ready for whatever is going to happen to me."

The spread of "internet sovereignty"

Under President Xi, China has expanded its efforts to assert influence over the development of the internet beyond its borders. The government continues to promote "internet sovereignty" at the United Nations and in other international forums as an alternative to the open, global vision of the internet that the US and other governments promote. In the Chinese government's view, the concept of internet sovereignty validates its legal and technical efforts to control access to independent information and spy on its citizens on a mass scale. Under this approach, cybersecurity threats can be defined broadly enough to include sharing information that diverges from official narratives.

The notion of internet sovereignty is also code for a multilateral approach to global governance of the internet, where states are the primary actors in determining the rules of the internet and civil society can be excluded from policy discussions. This approach contrasts with the "multi-stakeholder" model supported by the US, European Union, Brazil, India, and others, where civil society and industry can participate on an equal footing. Since 2014, the Chinese government has held its annual World Internet Conference in Wuzhen to promote its vision of the Internet, inviting like-minded governments while excluding civil society groups.

Russia is clearly also championing this idea, and its recently passed counterterrorism legislation reflects many elements of China's approach to internet regulation, including increased nationwide blocking, control over physical infrastructure, and pervasive surveillance. Recent media reports have described a series of high-level meetings between Russian officials and the architects of China's censorship and surveillance regimes, including Lu Wei, the former head of China's state internet information office, and Fang Binxing, the "father" of the Great

Firewall. The reports suggest that Russia is seeking best practices and technology from Chinese companies that have built China's systems of control.

These reports are consistent with our research on surveillance in Ethiopia, where for many years, the Chinese company ZTE provided technology, training, and consulting services to Ethiopian authorities. The Ethiopian government has used this expertise to censor information critical of the government, spy on activists, and target vulnerable groups for repression.

Human Rights Watch is concerned about the further spread of the Chinese government's approach to internet controls beyond its borders, including the transfer of technology and know-how to other governments.

Building up the Orwellian Social Credit System

In June 2014, China's State Council issued a lengthy planning document, outlining the construction of a "Social Credit System." The goal of the system is to collect and integrate a wide range of personal information on all citizens and organizations, and use that information to score them. The system will score citizens not only based on their financial creditworthiness, such as mortgage or credit card payments, but also based on their social and possibly political behavior, including but not limited to purchasing preferences, adherence to traffic rules, and online posts. In the future, a person's social credit score may have an all-encompassing impact on a person's daily life, such as loan interest rates, school admissions and scholarships, access to public parks and tourist sites, and travel on planes and high-speed trains.

After the promulgation of the 2014 State Council document, various local and provincial governments – from local residential committees to the central government – across the country have issued policy documents to begin implementing the system, but so far, the scheme remains largely experimental and the actual impact has been limited. For example, the Guangdong provincial government has set up a website called Guangdong Credit where people can search for "credit information" of companies, organizations, and "key individuals," such as notary publics, licensed lawyers, and registered accountants. Human Rights Watch's test of the system on April 29 shows the current data set primarily involves business records, such as registration information and tax payment history. Data on individuals are still lacking. Human Rights Watch entered several common Chinese names, as well as the names of Guangdong-based human rights lawyers and activists in the "key individuals" search; no results were shown.

Another example is the website maintained by China's judiciary system. On the home page of the website, a list of names of people that the courts have determined as having lost their creditworthiness is constantly shown. One can also search for specific names in the system. Human Rights Watch tested this on May 1, by entering several common Chinese names into the search bar. Each entry yielded hundreds of results. By clicking on "details," a court record appears, showing why the person has been deemed to have lost their creditworthiness. However, cases of dissidents and activists seem to be not included. The name "Liu Xiaobo" resulted in 41 entries, but none of them refers to the imprisoned Nobel laureate. The same situation applied to the names of several other prominent dissidents Human Rights Watch tested.

So far, the consequences of appearing on a court-ordered blacklist appear to be largely restricted to being unable to buy tickets for planes or high-speed trains. By the end of 2015, over three million people in China had been blacklisted.

One major difficulty facing the government is the enormous task of integrating data, but it is apparently addressing the issue. A central data platform called Credit China has been established to encourage information sharing. An official at the central planning agency told the *Wall Street Journal* in late 2016 that the platform had collected 640 million pieces of credit information from 37 central-government departments and various local governments. And in April, Wuhan, Changsha, Hefei, and Nanchang – four major cities in different provinces – signed an agreement to share and integrate social credit data, state media reported.

The social credit scoring system has also enlisted the participation of major internet and e-commerce companies in China. In January 2015, the People's Bank of China issued a notice giving eight companies a six-month period to "prepare well the work of scoring individuals' credits" as "an important measure of the State Council to promote the social credit system." These eight companies include Tencent, one of China's biggest tech companies, which provides a range of services in social media, news media, online gaming; and Sesame Credits, a company under e-commerce giant Alibaba that also runs the e-money platform Zhifubao. Instead of just being rated on their financial history, as the estimated 300 million People's Bank of China users are currently rated by the PBC's financial database, people using these companies' services could now be rated for their online behavior, too.

All kinds of details could be collected by these companies in forming credit ratings. The vast amount of data held by these companies include utilities payments, information from social media, and shopping records. Precisely what kind of information would be part of a person's credit report has not been made public, but state media has speculated that anything from "not showing up after calling Didi Taxi [an online ride-hailing service], being rated poorly [by users] on Taobao [an e-commerce platform], falsifying personal information to defraud insurance premiums" could negatively impact one's credit score. It is unclear how, or if, the government's social credit scores would be connected to the companies' scores and ratings. The State Council encourages these companies to "integrate the credit information disclosed by the government and the credit information not collected by the government."

Part of the impetus to set up such a system appears to be the authorities' concerns with a decline in "social morality" and desire to stamp out unscrupulous and illegal practices that undermine public confidence in the government. However, the system raises serious privacy concerns and has great potential for abuse given the lack of effective privacy protections in China. One of the most ominous aspects of the system is the ability to link an individual's speech to their social credit score. At least one human rights lawyer from Beijing, Li Xiaolin, was put on such a social credit blacklist in 2016 by a Beijing court after he posted his defense statement in a politically sensitive case. It is unclear what dispute resolution mechanisms are available to individuals to contest the ratings imposed on them.

The system, which is expected to be implemented by 2020, could have a serious chilling effect on internet speech. According to journalist Zhao Sile: "You already see how people can

withdraw from expressing critical opinions online because they are afraid that their accounts can be shut down. If the government can enforce real-name registration and closely link people's speech to their daily life and economic opportunities, it will be an extremely powerful tool to force people into self-censorship."

Recommendations

- The US should provide support for programs that enhance access to information, freedom of expression and privacy in China, ranging from circumvention technology and digital security tools to broadcasting by the Broadcasting Board of Governors.
- The US Congress should call on US technology companies that do business in China to answer questions on how they respond to Chinese government’s censorship and surveillance requests.
- Members of Congress should try to raise the profile of detained American publisher James Wang, and continue to call for the release of all those detained in China for exercising their right to free expression.
- The US should continue to call for the repeal or revision of laws in China that restrict peaceful expression, enable censorship, and oblige companies to participate in that censorship.