

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

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CHEN GANG, ET AL,      :
                        : No. 3:04CV1146 (RNC)
                        :
      Plaintiffs,      :
                        :
      vs                :
                        :
ZHAO ZHIZHEN, ET AL,   :
                        :
      Defendants.     : HARTFORD, CONNECTICUT
                        : MARCH 15, 2012
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ORAL ARGUMENT

BEFORE:

HON. ROBERT N. CHATIGNY, U.S.D.J.

APPEARANCES:

FOR THE PLAINTIFFS:

HUMAN RIGHTS LAW PROJECT
717 D Street NW
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Washington, DC 20004
BY: TERRI MARSH, ESQ.

FOR THE DEFENDANTS:

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BY: BRUCE S. ROSEN, ESQ.

Darlene A. Warner, RDR-CRR
Official Court Reporter

1 THE COURT: Yes.

2 MS. MARSH: And also I just wanted to say if you
3 wanted to begin with questions, that's fine, or if you
4 wanted me to speak, whichever.

5 THE COURT: I'm interested to hear what you have
6 to say.

7 MS. MARSH: Thank you.

8 THE COURT: And please make yourself
9 comfortable.

10 MS. MARSH: Thank you very much.

11 So much to say, it's hard to know where to
12 begin. So let me just begin with the question of the
13 euphemisms or the code words or the language.

14 It seems from my study of history that those who
15 have perpetrated these abuses, whether it was during the
16 Holocaust or in Rwanda use code words or euphemisms.

17 For example, in the Stryker case, which is a
18 case in the Holocaust, propaganda case where Stryker was
19 found guilty of crimes against humanity for doing pretty
20 much what we're alleging that Zhao did.

21 The word -- the German word for final solution
22 meant extermination, so much so that when we hear the word
23 final solution now, we know what it means. The word for
24 special treatment meant murder.

25 In the Rwanda cases similarly, the courts'

1 verdicts relied on the expert testimony of witnesses who
2 parsed out the meaning of the words used within the
3 context in which they were used in order to find Nahimana
4 guilty for acts that again are very similar to the acts
5 alleged here.

6 When Nahimana said on the radio "kill the
7 cockroaches," what the experts explained was that the
8 cockroaches were referring to the Tutsis.

9 In both of those cases, just an aside, in both
10 of those cases, the defendants were found guilty because
11 they -- their language was specifically tailored to call
12 for the persecution or murder or extermination or injuries
13 of the victims. It was accompanied by hate speech
14 vilification which the defendant repeatedly tries to
15 narrow this case down to.

16 So in other words, there were direct,
17 specifically tailored language for the crimes in
18 conjunction with hate speech.

19 Hate speech is obviously not a good thing. When
20 you say that people, Falun Gong, are ulcers and pestilence
21 and devils and demons and garbage, that the believers are
22 all these things because they belong to a group, that's
23 hate speech. That's not a good thing, but that's not what
24 this case is based on.

25 This case is based on the connection between the

1 hate speech and the calls to violence. But let me just
2 backtrack back to the Nuremberg Nahimana cases.

3 So in those cases, there was a call to -- there
4 was specific calls to murder, injure, exterminate. In
5 conjunction with vilifications -- and the vilifications,
6 by the way, in the Nazi era are almost identical to those
7 disseminated by Zhao directly or through his
8 organizations.

9 But what was the key and what the judges in both
10 of these cases say was the key was that this speech was
11 disseminated during an ongoing persecution.

12 I mean, in the Stryker case, the judge says
13 specifically, or the justice, that he vilified the Jewish
14 population, he called for their extermination while the
15 Jews were being put in camps in Auschwitz and Dochow and
16 so on and so forth.

17 So too, in Nahimana that the speech was uttered
18 during the ongoing prosecution of the Tutsis. And so too
19 in this case, the speech is being disseminated while Falun
20 Gong believers are being subjected as the State
21 Department, the United Nations and so many third parties
22 and hundreds of clients that I've spoken to are being
23 subjected to torture, torture methods that I don't share
24 with people because they're so -- they're difficult.
25 They're difficult to even envision or imagine.

1 The same is true in China or in this case. The
2 words that were used by the defendant in his own speeches
3 and in his scripts, and it's far more than two
4 occurrences, and on the CACA website which he founded and
5 managed and controlled along with other members of the
6 standing committee of the leadership council of the CACA,
7 and in the WTV television programs, and in the Lightened
8 Science series that he produced and directed, those words
9 have special meanings.

10 And what He Qinglian said in her affidavit,
11 which I submitted simply to provide some more
12 clarification, is that these words are -- the meaning of
13 these words are understood by the speaker and the listener
14 that douzheng means it is imperative to go outside the law
15 and persecute this person, to go outside the law and
16 persecute this person, and that that is understood by the
17 speaker and the audience, the audience especially
18 including Chinese security.

19 And she did not have not say that one had to be
20 over 50 to understand the meaning of the term. She just
21 pointed out that people that lived through the cultural
22 revolution, and that includes Zhao, because his father was
23 a target of the cultural revolution, would be especially
24 familiar with these words.

25 And so it's other words, zhuanhua designates the

1 process that forces the person to give up his or her
2 beliefs through methods including torture and
3 imprisonment.

4 And now, I know a lot more about how this works
5 than I have put in the complaint, and I have a lot more
6 evidence than I have submitted in the complaint, because
7 it was just a complaint. Every single allegation in that
8 complaint is supported by evidence, and I have the
9 evidence.

10 In fact, I brought with me to the Court, which
11 is one of these binders here that I have -- I have a huge
12 binder here on the table, CACA evidence, with evidence to
13 support every single allegation in -- and I'm serious,
14 every single allegation in that complaint.

15 I don't want to jump around too much, but we
16 have evidence that reports that CACA local branch security
17 went to the labor camps themselves with the training
18 manuals, with the instruction manuals, to tell the
19 security how to transform Falun Gong, and that's that word
20 zhuanhua, and in one report it actually says that the CACA
21 did the transformation themselves.

22 I think that this case to the extent that it's
23 difficult is certainly difficult because of the meanings
24 of the terms because the difference between speech in the
25 United States and speech in China.

1 You know, we all grew up with the First
2 Amendment. I respect the First Amendment enormously. I
3 just can't imagine living in a world in which one could
4 not say, hey, you know what, I practice Falun Gong and I
5 believe in the tenets, or I'm a lawyer in China and I'm
6 representing, you know, labor groups and I'm doing that
7 because it's in the Constitution. Or you know what? The
8 Constitution doesn't say that there can be these
9 reeducation camps that people get sent to without trial.

10 These things can't be said in China. Nobody in
11 China can stand up and say, hey, this is what I think.

12 We have a Chinese lawyer sitting here, right
13 here, who was representing Falun Gong in China, and I'm
14 now working to get him asylum here because he was being
15 subjected to persecution.

16 One of the lawyers that I worked with directly
17 on these cases -- and it's interesting because how I got
18 to do these cases -- I did a few cases and then the
19 Chinese defense lawyers and civil rights lawyers met with
20 me in secret and the idea was for me to give them the
21 information so that they could represent Falun Gong. And
22 so I downloaded the UN reports, I downloaded the special
23 repertoire reports, the Department of State reports, I
24 gave them copies of the Declaration of the Human Rights.
25 I gave them everything I could. I gave them copies of

1 Laozi because I had just finished that case and I learned
2 how to create a CD for the first time in my life actually
3 it was so important to me.

4 And so the idea was that they would do the cases
5 and I would go back to the criminal defense work that I
6 was doing and that I actually value. But what happened
7 was, very hard to tell, because then they were arrested
8 and persecuted. And so Gao Zhizheng, who worked with me
9 on one of my cases, he's disappeared and I know what he's
10 going through. I mean, I know what they're doing to him
11 because I know almost too much.

12 And so it is impossible to do these cases in
13 China, which is I think what all of us want. I mean,
14 it's -- and I just wanted to add that the plaintiffs are
15 different in these cases. They're not the same. And one
16 of the things that the Chinese lawyers taught me -- I mean
17 the plaintiffs in the different Falun Gong cases. One of
18 the lessons that the Chinese lawyers gave to me was that
19 they said that almost every single Falun Gong believer
20 who's in jail or in a detention center is there only
21 because they were protesting the jailing and persecution
22 of another Falun Gong.

23 It started with a few Falun Gong in China
24 protesting some of the reports about Falun Gong as being
25 something other than a religion based on compassion and so

1 on. And so those people were jailed, and so you had a
2 peaceful protest at Zhongnanhai and those people were
3 jailed.

4 So what the Chinese lawyers explained to me is
5 that everybody who is in jail has been either saying, hey,
6 Falun Gong is good. We believe in compassion, we believe
7 in truthfulness, we're peaceful, or they're simply going
8 to the appeal office and protesting the fact that other
9 people are in jail and now they're in jail.

10 That was very interesting to me because when he
11 was 11 years old the Freedom Riders stayed at my home on
12 their way to the south. My mother was supposed to go with
13 them, but something came up. And so I spent, as an 11
14 year old, an evening finding out from these people why
15 they were going down south on buses and risking going to
16 jail, because why would you risk going to jail for other
17 people. And they explained it to me, and I remember that
18 they were put in this horrible jail in Mississippi and
19 that all of these other Freedom Riders from around the
20 United States went down and joined them in jail.

21 That's what Falun Gong are doing in China,
22 except in China you can't say that. You can't explain
23 that. Because in China there is a one voice censorship
24 system. There is no dissent about sensitive topics.
25 Anybody who tries to say anything about a sensitive topic

1 that is at odds with the party line is jailed. And so you
2 have the Nobel Peace Prize winner who was a journalist who
3 was in jail because he posted articles on the web.

4 I mean, for example, even if there were a
5 hearing or a trial in this case, there really are experts
6 who know how the propaganda works in China, what the words
7 mean. I mean, there's books about the meaning of these
8 terms.

9 In fact, Ryan Mitchell, a third year law student
10 at Harvard is writing a law review article about 95 pages
11 under his adviser, who was the chief China expert in the
12 country, about the history of these words. And I'm not
13 making this up. The words mean what we're saying they
14 mean. There's documents to show that.

15 We filed a complaint with allegations, and I
16 feel like I'm being asked on the one hand to prove the
17 case in the complaint and on the other hand I'm being told
18 you can't have a trial because it's worthless. There's no
19 reason for a trial. My client doesn't want to come to
20 court for a trial. That doesn't seem like due process to
21 me.

22 THE COURT: Counsel mentioned that Mr. Zhao is
23 distressed to be depicted as Goebbels. Is that your
24 intention to depict him in that way?

25 MS. MARSH: I have compared the defendant's acts

1 to other propagandas who have disseminated or specifically
2 tailored their language to call for persecutory
3 activities. The use of douzheng, which he uses quite
4 often. The use of zhuanhua, which he uses quite often.

5 In the video about Li Hongzhi, it specifically
6 calls for the douzheng of the Falun Gong. He specifically
7 said that he created the video in order to -- for it to be
8 a central reference point for the chuli and jiepi of Falun
9 Gong. The chuli is like the German word. Special
10 treatment. It's kind of like violence, disposal all the
11 way up to final solution. It's not a kind word. Jiepi is
12 the vilification of a group frequently done by taking
13 somebody, putting them on a stage and having everybody in
14 the room throw things at them, somebody on the stage is
15 beating them and insulting them and telling them that what
16 they believe is wrong, and it's defined again in the
17 expert affidavit.

18 So what I'm saying is that the defendant in his
19 organizations used the same tactics to further and
20 instigate the torture and persecution of Falun Gong in
21 China that was used by Stryker who was found guilty by
22 Nahimana, Goebbels committed suicide. But I'm not saying
23 he's playing the role of Goebbels in China per se. I
24 would say that that's probably a role that might be be
25 playing by some other person.

1 THE COURT: In that regard, it would be helpful
2 to me if you could tell me more about what is going on.

3 You depict this defendant as an influential
4 party official who is instrumental in supporting and
5 furthering a campaign of persecution, and I'm wondering if
6 there are others who are involved in this kind of activity
7 or whether you view him as a central figure?

8 MS. MARSH: I view him as a central figure
9 without a doubt, but he collaborated with other media, he
10 collaborated with other members of the communist parties
11 as alleged in the complaint and he collaborated with
12 public security, but the propaganda that he uses
13 specifically calls for douzheng chuli and zhuanhua of
14 Falun Gong, that is calling for their zhuanhua, torture
15 through transformation. He reiterates the importance of
16 the zhuanhua. The transformation through torture of Falun
17 Gong. Its on the website. He defines his video as in
18 order to further the chuli and jiepi of Falun Gong.

19 He vilifies Falun Gong himself. He calls them
20 garbage and demons and all sorts of characters that are
21 also used during the Nazi era.

22 I mean, I have like a 12 page chart which I
23 don't think you really want to see, in which I go through
24 the characterizations of the Jewish people during the
25 Holocaust, and I'm Jewish so that has a lot of effect on

1 me when I look at that. And the characterizations of
2 Falun Gong. And they're almost identical.

3 The Jews would murder the first Christian born
4 and drink their blood on the 15th day of every month. The
5 Jews had ritualized cannibalistic murderings of Christian
6 children. You know, they're enemies that will overturn
7 Germany if they're not, you know, destroyed. They're
8 cockroaches. They're insects. They're bugs. They're
9 virulent ulcers and pestilence.

10 It's the exact same depictions and
11 characterizations as are used by Stryker during the
12 Holocaust, and I think his role is very similar to
13 Stryker's. Stryker owned a newspaper and he published
14 characterizations of the Jews, vilified them. He called
15 for their murder and extermination, and he did this while
16 this was going on. And Zhao did the same thing himself
17 through his speeches, through his script about Li Hongzhi,
18 through the CACA especially.

19 The CACA is the central depository of all the
20 information about Falun Gong and he specifically developed
21 and designed the CACA to douzheng and zhuanhua Falun Gong,
22 and it's in Exhibit I with Section 4, it's at the -- it's
23 what's called the CACA Working Report.

24 When he had the meeting with the CACA in 2000, I
25 think it was January, suggesting a website, he gave

1 reasons for that website, and one of the reasons was to
2 douzheng Falun Gong, to conduct a spear to spear campaign
3 on the internet to further the douzheng of Falun Gong.

4 Another reason was to develop and disseminate
5 anti-cult strategies. And the major anti-cult strategy in
6 China is zhuanhua, the transformation through torture of
7 Falun Gong.

8 The propaganda activities that are carried out
9 by his agents or subordinates over the CACA website, also
10 were directed -- the language was specifically tailored to
11 persecute douzheng, vilify and expose jiepi and zhuanhua
12 torture through -- transform through torture and
13 imprisonment.

14 And they carried out his objectives within the
15 scope of their employment, and I think that's important,
16 because if we look at the actual torture manuals and the
17 videos, they are connected to Zhao.

18 Zhao himself identified the major purpose of the
19 website to include the transformation through torture.
20 The transformation manuals were provided to Chinese
21 security through a variety of channels. For example, the
22 website that he founded and controlled featured torture
23 related training manuals, reports and books in addition to
24 845 entries of Chinese security detailing specifically how
25 they effectively transform Falun Gong believers.

1 The CACA website staff or CACA staff actually
2 went to -- not the website -- but the CACA staff actually
3 went to the camps and gave them the methods, gave them the
4 manuals and the reports. The CACA hosted conferences
5 focusing on this transformation through torture.

6 At a 2004 CACA conference, the agenda was: What
7 are we going to focus on this year? And one of the five
8 agenda items was the transformation through torture, let's
9 do more, let's do a better job.

10 THE COURT: In your view, he would be
11 accountable for these actions by other people?

12 MS. MARSH: Superior respondeat. That these
13 people were furthering his objectives or that he was
14 actually giving them orders, and if he was giving them
15 orders, I would need some discovery, and I would also like
16 to be able to file some interrogatories and get some
17 answers to some questions.

18 But, yeah, the theory is that these people were
19 operating to further his objectives, which are, he's
20 stated them clearly, to the point of the CACA website is
21 to further the zhuanhua of Falun Gong. The point of CACA
22 itself, if you look at the bylaws, which I didn't submit
23 to the Court, but the bylaws say that there are specific
24 activities that CACA is involved in, and one of them is
25 the douzheng of Falun Gong and another one is the zhuanhua

1 of Falun Gong.

2 So I don't think it matters whether the manuals
3 were -- hold on a second.

4 (Pause)

5 MS. MARSH: Yeah, this was given to me in answer
6 to another question you asked. Let me just go off for a
7 second.

8 That we allege in the complaint that he used his
9 CCP stature and influence to help construct the
10 ideological framework for Falun Gong's persecution,
11 paragraph 46.

12 He had a longstanding role in assisting the CCP
13 elite and insuring adherence to and preservation of CCP
14 control.

15 There was a symbiotic relationship between the
16 defendant and the security officials.

17 I mean, there are lots of allegations in the
18 complaint about his specific stature within the party that
19 he would not have been included in the CACA, he would not
20 have been asked to create the video documentary about Li
21 Hongzhi, which was shown, the documentary was shown at the
22 June 19 special meeting of the politbureau which started
23 the persecution. And it's touted on the CACA website as
24 having not only enormous effect in terms of explaining to
25 the Chinese people what's wrong with Falun Gong, but it's

1 actually touted on the website as the most effective --
2 the forced viewing of Li Hongzhi is touted as the most
3 effective method of transformation, period. And the
4 website also recommends the viewing, the forced viewing of
5 it.

6 But to get back to what I was talking about,
7 the -- providing of the torture manuals to the Chinese
8 security through all these different mechanisms, whether
9 it's the CACA website, the CACA conferences, the visits to
10 the camps, they were done by CACA subordinates and they
11 were done to further objectives that are the objectives of
12 the CACA website and the CACA association. And the
13 defendant is part of the standing committee of the
14 leadership council. He's not just part of the leadership
15 council, which is what runs the organization, but he's
16 part of the standing committee. It's like being part of
17 the standing committee of the politbureau, that's like
18 nine people, it's a very elite group which runs the
19 organization which we allege.

20 As part of the standing committee of the
21 leadership council, he sets policy, he initiates and
22 terminates projects, he supervises activities, including
23 these activities that we're talking about here, he selects
24 and removes and appoints staff.

25 THE COURT: When you speak of torture manuals,

1 can you be more specific, please?

2 MS. MARSH: Yes, okay.

3 So we -- the manuals that are on the website are
4 given titles, so we put the titles in the complaint. They
5 include, as was stated, methods -- these are the methods
6 you could use if you want to zhuanhua, transform, Falun
7 Gong.

8 And then another section is use force -- you
9 know, forced views of Li Hongzhi. Very effective.

10 Key points to take note of in the transformation
11 process.

12 Major difficulties and breakthroughs.

13 Now, I haven't read all these books and
14 everything, but I did have one example translated for me
15 so that I could understand how it works, and it was
16 actually in connection to the Cisco case, not this case,
17 to be honest, because I was work on something else. But
18 it turned out that the source of the information was the
19 CACA.

20 And basically what -- and I don't know if I'm
21 going to remember it all -- but what I do remember is that
22 what it said was, okay, learn everything you can about
23 each of these believers, everything. And this information
24 has to go into a database. That's where Cisco gets
25 involved. And the information that was --

1 MR. ROSEN: Excuse me. This is not part of the
2 complaint, Judge, I don't know how this gets in there.

3 MS. MARSH: I was just answering the question,
4 I'm sorry. It's not in the complaint.

5 THE COURT: I asked for a clearer description of
6 the torture manuals so that I would understand what the
7 reference means and counsel was responding to that
8 question.

9 MR. ROSEN: Sorry, Judge.

10 MS. MARSH: So the information that they
11 especially want are specifics about family. And I know
12 this also from talking to a lot of my clients.

13 Is your father on -- you know, is the person's
14 father on dialysis treatment? And does he need, you know,
15 the state benefits? Is your son in a particular kind of
16 school? What are your financial arrangements? What sort
17 of finances do you have or need? What is your
18 relationship with your colleagues at work? What is your
19 psychology? What are your pressure points? What do you
20 really care about? What are you afraid of? What have you
21 done in the past? Have any of your friends been put on
22 the stage and been subjected to this jiepi so you would
23 want to protect them. Anything you can find out about
24 this person.

25 And these people -- and they're not called

1 people, by the way, just point it out, but they are people
2 that we're talking about. And so what I saw, because
3 of -- because of something that I was doing in Cisco that
4 had to do with mental torture, it was an example of the
5 mental torture.

6 Because what they do is, okay, one of my
7 plaintiffs in the Cisco case, she was in a detention
8 center, rather a police station, and what they said to her
9 was: Do you want us to bring your son here? Sign this
10 confession. She refused to sign it. Well, they brought
11 her son. They brought her son and they tortured her in
12 front of her son and her son still is under the effect of
13 that, according to her, and when she tells me this story
14 she just bursts out crying.

15 If the father is on dialysis and you don't sign
16 the confession, well, the father's subsidies are gone.

17 Or if your parents or grandparents are in
18 special housing, or if you have a job, you don't have it
19 anymore. Or your house, you don't have it anymore.

20 So it's deprivation of liberty, you know, for
21 the person themselves but it's also bringing in their
22 entire circle of friends such that most people sign. Most
23 people sign confessions saying "I do not believe in the
24 principles of Falun Gong." Because they can't take it.
25 They just can't take it anymore.

1 And we have thousands upon thousands of people
2 who practice Falun Gong in this country, many of them in
3 this courtroom. They're professors at prestigious
4 universities. We have a Ph.D., Princeton graduate who I
5 think he -- I don't know if he developed it or found this
6 some kind of matter energy configuration in the fifth
7 dimension and he's really famous.

8 We have Lord Thurlow who is a peer who taught at
9 Cambridge and provided one of the declarations about why
10 he practices Falun Gong.

11 There are people at Yale Law School, Harvard Law
12 School, former classics professor, and there's also people
13 who are waitresses and so on and so forth.

14 People practice Falun Gong because they believe
15 in the principles of Falun Gong, and that's the only thing
16 they have in common, is they believe in Falun Gong. Just
17 like Jewish people, we're not all the same, we just happen
18 to believe in the same religious principles.

19 So the reminder that I actually got from the
20 Chinese lawyers when they left, and I remember this real
21 clearly, was thank you, they said to me, for helping
22 Chinese citizens. They didn't say Falun Gong, they just
23 said Chinese citizens. And I thought yes.

24 THE COURT: To my knowledge there is no case
25 under the alien tort statute that holds propaganda alone

1 to be a sufficient basis for liability. In that context,
2 what is it about this case that would justify this Court
3 establishing such a precedent?

4 MS. MARSH: That's a good question. I thought
5 about that myself and, you know, I purposely filed this
6 case after the New York Times article about the Nahimana
7 cases because I was so struck with the similarity and I
8 was very aware that the precedence or Stryker in the
9 Holocaust case, and the Nahimana and the media cases, and
10 there's quite a few other cases under international law,
11 but the fact that there's no specific case doesn't make
12 this unlike other ATS cases.

13 The legal standard of aiding and abetting
14 requires substantial assistance, and I think -- and I was
15 going to talk about that, but we've gotten off track --
16 but I think that the allegations clearly support
17 substantial assistance through the propaganda itself, the
18 calls to -- calls to torture and persecute, the
19 vilification, that's the propaganda, in addition to the
20 torture manuals and the indoctrination videos, which I can
21 also connect very closely to him, that he did
22 substantially assist. And I think his purpose, we devote
23 a number of paragraphs in the complaint, and I think
24 that's pretty clear.

25 And so I think that he used speech to aid and

1 abet these crimes, that's all. Just like somebody might
2 have used guns to aid and abet. That's not a gun. I'm
3 not saying it's a gun, but somebody used other tools, that
4 similarly can aid and abet.

5 So I think that the question is: Did he aid and
6 abet these crimes through speech or whatever? And
7 propaganda is not a Sosa norm, we've never alleged it as a
8 Sosa norm. We've only said that the speech was used to
9 aid and abet these crimes. And also that he operated with
10 others in a conspiracy to further these crimes. That's
11 what I think is really before the Court.

12 And the fact that people use speech to do
13 terrible things, you know, what can I say? History is not
14 pleasant.

15 THE COURT: All right.

16 MS. MARSH: Did you want me to -- I can connect
17 him to the indoctrination videos more.

18 THE COURT: I would be interested to hear from
19 you on that.

20 MS. MARSH: So the purpose of the website
21 according to Zhao is to zhuanhua Falun Gong, so we have
22 that.

23 The major activities of the CACA that Zhao
24 founded and controls to a large extent is also to douzheng
25 and also to zhuanhua Falun Gong.

1 The major activities of the CACA focus on the
2 zhuanhua of Falun Gong. The defendant reiterates the
3 importance of this process, this transformation process,
4 and reports on the website.

5 The forced viewing of this video is touted on
6 the website as one of the most effective forms of
7 transformation through torture, something that is an
8 objective of the defendants'. The forced viewing is
9 highly recommended as a form of transformation on the
10 website.

11 CACA staff provided the indoctrination material
12 to the Chinese security at the labor camps. And we also
13 allege his collaboration with Chinese security throughout
14 the complaint.

15 In addition to all his other acts, I mean, his
16 obviously anti-Falun Gong acts, I think that that allows
17 the Court to make a reasonable inference that either he
18 himself intended that the videos be used in this manner or
19 that his subordinates facilitated the forced viewing --
20 directly facilitated the forced viewing of these videos in
21 furtherance of his objectives. And I really do think that
22 that's clear from the allegations in the complaint.

23 I stand firmly on the complaint and I would
24 happily provide any evidence to the other side or to the
25 Court about any allegation in support thereof.

1 And I don't think the First Amendment applies to
2 this case for lots of reasons, one of which is that the
3 First Amendment is to protect speech that discriminates
4 against minority groups and that Falun Gong in China is a
5 minority group that can't speak out. They're not allowed
6 to speak out, there's no dissent. It's all censored.

7 The free speech system in this country is
8 diametrically opposed to the free speech in China where
9 there's one voice. Speech in China about sensitive issues
10 is kind of like the Orwellean -- the voice in Orwell's Big
11 Brother. It speaks, nobody can say anything different.
12 The party decides what you can say and what you can't say
13 about particular topics and what topics can and cannot be
14 discussed. And so it's diametrically opposed to the
15 principles that animate the First Amendment that all of us
16 obviously care enormously about. And as I've done this
17 case, I care all the more about the First Amendment.

18 In addition to that, the speech that aids and
19 abets, it's not protected by the First Amendment. And the
20 difference being that if you look at Brandenburg, it talks
21 about speech that advocates something, but aiding and
22 abetting is carrying something out, it's doing something
23 that results in certain actions. It's not just advocating
24 it.

25 So if the speech aids and abets, if the Court

1 finds that the speech aids and abets, then it's not
2 protected by Brandenburg. Even if one were to apply
3 Brandenburg, under this case Rubin, and I think the facts
4 are very similar, that his speech does meet the
5 Brandenburg requirements.

6 I would say, you know, that -- this is just my
7 opinion -- that if this case goes to trial, there would be
8 expert testimony as to the meaning of these terms by
9 people who the Court could credit, because I know who
10 these people would be. And if there was any issue about
11 freedom of speech at all, it would have to do with speech
12 under international law, not U.S. law, because I don't
13 think the First Amendment applies here.

14 However, it's exactly the same. Because under
15 international law, if you look at Stryker and Nahimana,
16 the reason that the first -- sorry, the reason that the
17 free speech principles did not protect their acts was
18 because of the combination of the calls, the direct calls
19 to murder, exterminate, persecute, coupled with the
20 vilification that went on during an ongoing persecution
21 while the Jews were being persecuted.

22 Those were the three factors that were
23 determinative in the Court's findings of guilt in those
24 cases and not finding guilt in other cases, by the way.
25 And so that could be an issue.