

**Case About Persecution And Torture—Not First Amendment**

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**To The Editor:**

This journal recently published an article entitled “Charges of Genocide” (Connecticut Law Tribune, Feb. 13, 2012) concerning international human rights litigation currently being heard in the federal district court of Connecticut. The case at issue, *Gang v. Zhizhen*, does not in fact include charges of genocide in its amended complaint (filed last summer), but rather alleges that a high-level Chinese Communist Party propagandist aided and abetted the arbitrary detention, torture, and other individualized human rights violations suffered by plaintiff members of the persecuted Falun Gong religion. The misnomered article also conflates a number of other significant factual issues.

The article concludes with the solicitation of an opinion by a University of Connecticut law professor, concerning First Amendment protections for the defendant as a “reporter” who engaged in supposed “hate speech.” That factual scenario is simply not the one presented in the case. It is well known that all forms of media in China are party-controlled, and there is not a single independent media outlet in China. It is therefore inaccurate to assert that Chinese “reporters,” like their counterparts in other nations, run independent investigations and reports.

Moreover, the defendant, far more than a mere “reporter,” had spent two decades as the executive director of one of China’s most prominent television stations, and occupied a parallel position of authority in the Communist Party’s strictly hierarchical propaganda apparatus. It was by virtue of these positions of rare influence and prestige that Zhao was able to effect substantial assistance of party security forces’ serious abuse of the plaintiffs.

Although it can be difficult for those of us in the West to understand how propaganda — “mere language” — might substantially assist such violations, it is the unfortunate truth that, in the People’s Republic of China, not all language is created equal. The defendant’s own statements about his propaganda work are perhaps one of the best indications of its efficacy. In one widely-disseminated statement, he described his work as effecting douzheng against Falun Gong, and in another, as having a crucial role in the jiepi of the religion and its adherents: both terms, the first meaning “ideological persecution campaign” and the latter “public degradation and vilification,” are at the heart of Cultural Revolution-era practices of political persecution, easily recognizable to any Chinese citizen, like the defendant, who has personal knowledge of those years. Chinese security forces also received a clear message from this terminology — in cracking down on Falun Gong, the most severe means ought to be used to suppress the targets.

Far beyond mere “hate speech,” the defendant’s propaganda materials had the real operative effect of mobilizing the violations suffered by the plaintiffs in this matter. In language reminiscent of that of Julius Streicher, a Nazi propagandist sentenced at Nuremberg, the defendant repeatedly used violent and dehumanizing imagery to characterize the plaintiffs’ religion, and to call for its extermination from Chinese society. Like propaganda calling for a “final solution to the Jewish problem,” the defendant’s propaganda explicitly called for Chinese security forces to “wipe out the evil cult,” stop “the spread of this psychological epidemic,” and “transform” any recalcitrant members failing to abandon their faith.

He even created his own channels, such as a nationwide “anti-cult” web site, to disseminate instruction manuals and other such materials to aid in effecting such “transformation,” which, as plaintiffs experienced, invariably was conducted through prolonged torture and ideological indoctrination. All such speech constitutes what linguists call “performative utterances”—speech with real-world effects beyond mere communication, which is not protected under First Amendment case law, and which in this matter runs contrary to First Amendment principles.

Never was it intended that “free speech” doctrine should protect the propaganda mobilizing repressive campaigns in a totalitarian state.

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