

[RELIGIOUS FREEDOM]

Blind Eye to Repression

U.S. court: It's not our business how China enforces its religion laws.

For more than five years, Xiaodong Li and about half a dozen friends gathered weekly in their hometown of Ningbo, China, to study the Bible and sing hymns. Then, one Sunday morning in April 1995, three cops stormed into their meeting, handcuffed Li, and escorted him to the local police station.

They hit and shocked him with an electronic baton for two hours until he confessed to organizing an underground church, according to court documents. After his release from jail five days later, police forced him to clean public toilets without pay. He lost his job as a hotel spokesman.

Li, 22 at the time, likely faced two years in prison. He fled the country before his court hearing, finding a job serving food on a cruise ship. In January 1996, the ship docked in Miami. Li walked off and moved to Houston.

In 1999, Li applied for asylum, stating the Chinese government had persecuted him for his religious beliefs. He missed the application deadline, but an immigration judge agreed with his arguments. The judge granted him a status that allowed him to remain in the United States until conditions in China improved.

Four years later, the Board of Immigration Appeals reversed the judge's decision. It ruled that Li was punished for violating laws on unregistered churches that China has a legitimate right to enforce. Li, the

board concluded, feared legal action or prosecution, not persecution.

In August, a three-judge panel of the federal Fifth Circuit Court of Appeals affirmed the board's ruling. The decision has alarmed refugee and religious-freedom advocates. They say the ruling, unless overturned, will make it much more difficult for future refugees to find asylum in America.

The decision "sends a chilling message that the United States is beginning to turn its back on people fleeing religious persecution," said Dori Dinsmore, the former advocacy director for World Relief, an international organization that assists refugees.

Asylum allows refugees to work in the United States and later apply for permanent residence. Applicants must prove they are escaping persecution based on their nationality, membership in a particular social group, political opinion, race, or religion.

A spokesman for the U.S. Citizenship and Immigration Services bureau said the agency is reviewing the Fifth Circuit decision.

Li's Houston-based attorney, Garrett White, said his client, now 32, plans to appeal, both to the full ring of Fifth Circuit judges and to the U.S. Supreme Court. The Alliance Defense Fund has joined White as co-counsel.

Li was among 30 million to 60 million Chinese citizens who worship in illegal independent house churches. Religious groups registering with the Chinese government have faced numerous restrictions for decades, said Caleb Weatherl, a researcher with the China Aid Association, a Texas-based advocacy group for persecuted Chinese Christians. For example, he said, all church instructors must be approved by the Chinese government.

The Chinese law against unregistered religious activities is "simply an institutional form of persecution," according to the immigration judge who tried Li's case.

Not so, the U.S. attorney general's office argued. China was motivated by a desire to maintain social order, the office contended.

Because the Chinese government tolerates Christianity, so long as it is practiced in a registered group, the Fifth Circuit concluded that reasonable and substantial evidence supports the Board of Immigration Appeals decision that Li was punished for illegal activities—not for his religion.

• Boaz Herzog