

various agencies and ensuring consistency with Presidential priorities. While this, too, is a valid purpose, it proved a useful avenue for secret lobbying, political pressure on agencies, and delays of agency decisions. This is not what regulatory review should be about.

Congressional hearings over the last 10 years or more have highlighted complaints about OMB's role in regulations relating to infant formula, lead, ethylene oxide, drinking water, underground storage of toxic chemicals, grain dust, and more. Several court decisions have also focused on some of these cases.

The former OMB Director, Richard Darman, even testified before the Governmental Affairs Committee in 1989 that "OMB had abused the process by using delay as a substantive tool" to control agency decisions.

In 1991, our committee had many of the same complaints with regard to the Council on Competitiveness, which was chaired by Vice President Quayle, and was supervising the OMB regulatory review process. There were a lot of charges about secret lobbying a lot of refusals to disclose who was meeting with Council representatives on current regulatory proposals.

I do not believe the solution to these closed processes is to outlaw them. Regulatory review is useful and should not be curtailed. But it should be more open. With openness the process can go forward and the American people can be confident in knowing that no secret dealings are going on behind closed doors.

Through the years of our oversight in the Governmental Affairs Committee, there has been considerable disagreement in the committee about how much sunshine is needed and at what stages in the process. The committee has, however, always agreed on the need for sunshine and public confidence in the regulatory process. In the consideration of S. 291, Senator ROTH's regulatory reform bill that was supported unanimously by Democrats and Republican in our committee, we arrived at a set of requirements that were acceptable to all. They were reduced in scope from earlier proposals I have made. They are consistent with recommendations of the Administrative Conference of the United States and provisions in current regulatory review order (E.O. 12866). These provisions include openness procedures instituted by OMB in 1986.

In other words, while some past proposals have been criticized as too intrusive into the prerogatives of the Chief Executive, the sunshine provisions in S. 291 work without raising past concerns. There were no complaints in committee about intrusion into executive privilege. Past criticisms about forcing early disclosure of information during regulatory review was resolved by putting off disclosure until after the completion of regulatory review. Earlier complaints about undue administrative burden,

such as detailed logging requirements, were also addressed by matching requirements to those currently employed by OMB.

The Glenn/Chafee bill, S. 1001, contains the exact sunshine provisions of S. 291. The amendment I offer today is almost identical to that language—it is only modified in order to fit into the structure of S. 343. Without this amendment, S. 343 has no public protections during regulatory review. I believe that is a fundamental flaw that needs to be addressed. I believe that our bipartisan Governmental Affairs sunshine provisions provide the needed solution.

The amendment has two sets of requirements—one for OMB, and one set for the rulemaking agencies.

First, OMB must disclose to the public information about the status of rules undergoing review. This means that the public should be able to learn from OMB what agency regulatory actions are under review. As a practical matter, this would entail the production of a single monthly listing of proposed rules under review—as OMB currently prepares pursuant to E.O. 12866. In this way, the legislation would merely create a statutory right to information now provided under Presidential Executive order.

Second, the public must have access, no later than the date of publication of the proposed or final rule, to: (A) Written communications exchanged between OMB and the rulemaking agency. These would include draft rules and related analyses; (B) Written communications between OMB and non-governmental parties relating to the substance of a rule; (C) A record of oral communications between OMB and non-governmental parties relating to the substance of a rule—as in, who called, when, and on what subject; and (D) A written explanation of any review action and the date of such action.

Each one of these requirements is currently the practice of OMB. Again, we expect that these requirements will entail the continuation of the current OMB practice of maintaining regulatory review files in a public reading room.

Third, as a counterpart to public disclosure, OMB is required to send relevant information to the rulemaking agency to ensure the compilation of a full and accurate rulemaking record. OMB must send to the agency: (A) Written communications between OMB and non-governmental parties; (B) A description of oral communications, and an invitation to participate in meetings, relating to the substance of a regulatory action between the reviewer and any person not employed by the executive branch of the Federal Government; and (C) A written explanation of any review action.

The second part of the amendment requires agencies to: First, give public notice about rules undergoing regulatory review; and second, describe reg-

ulatory review decisions in the relevant rulemaking notices.

With these procedures, we should be able to put behind us much of the rancor and criticism that dogged OMB regulatory review during the past 15 years. The Clinton administration has taken an important step in applying these procedures in its Executive order. The time is now for Congress also to close the book on this issue. We are taking a significant step forward in moving regulatory reform legislation and in order to be successful, it must be accompanied by sunshine.

Mr. HATCH. Mr. President, we do have some concerns about this amendment on this side. We have some constitutional concerns and some others.

We are willing to accept this amendment tonight on the basis that we continue to work with our distinguished colleague and friend from Ohio and others, and we are trying to accommodate over here. So we are prepared to accept the amendment if the Senator will urge it.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. GLENN. Mr. President, I urge adoption of the amendment.

THE PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1540) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote.

Mr. HATCH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I wonder if the Senator will yield? May I ask my colleague if we have cleared the Heflin amendment yet? Senator HEFLIN wanted to make Section 706 of the APA applicable to appeals from the court of claims.

Mr. HATCH. It is my understanding it has not been cleared yet but it is being worked on.

MORNING BUSINESS

DETENTION OF HARRY WU

Mr. DOLE. Mr. President, by now most of America knows of the unjust detention of Harry Wu by the People's Republic of China. Harry Wu is an American citizen and human rights crusader. Since June 19, 1995, he has been detained in China. Consular access to detained American citizens is required to be granted within 48 hours under the terms of a 1982 agreement with China. But China did not grant access to Mr. Wu until July 10—21 days later. On July 9, Harry Wu was charged with offenses which could carry the death sentence.

Harry Wu was traveling on a valid American passport, with a valid Chinese visa. There seems little doubt that he was targeted by the Chinese Government for his outspoken and brave efforts to describe Chinese human rights

abuses. Mr. Wu himself suffered almost two decades of imprisonment in the Chinese gulag. His continued imprisonment is an affront to all freedom loving people.

Mr. President, our relationship with China is at a critical crossroads. Our relations with China are at the lowest point in years, and the list of disputed issues is long: proliferation, human rights, Taiwan and trade. We must, however, choose our course carefully. As Henry Kissinger said this morning before the Senate Foreign Relations Committee: "The danger of the existing roller coaster towards confrontation to both China and the United States is incalculable." I share Dr. Kissinger's concern over the dangers of a full-scale confrontation.

But just as we must not casually move toward a conflict that serves neither country, we cannot remain silent in the face of outrageous conduct. The most fundamental duty of Government is to protect the rights of its citizens—and Harry Wu is an American citizen. I urge the Chinese to release Harry Wu, and remove this latest flashpoint in our relations.

A major United Nations Conference on Women is scheduled for September in Beijing. I agree with the bipartisan view recently expressed by my Republican colleague from Kansas, Senator KASSEBAUM, and the Democratic Congressman from Indiana, LEE HAMILTON, when they suggested the United Nations should quit wasting scarce resources on conferences that spend much and achieve little.

I understand the administration plans to send a senior delegation, including two Cabinet officers. In my view, it would be wrong for the United States to participate in the United Nations Women's Conference at any level or in any fashion as long as Harry Wu is held. This morning, along with Speaker GINGRICH, Chairman HELMS, Chairman GILMAN, and Helsinki Commission Co-Chairs Senator D'AMATO and Congressman CHRIS SMITH, I sent a letter to President Clinton urging a U.S. boycott of the U.N. Women's Conference as long as Harry Wu is detained. In my view, that is the least this Government can do to try to show our displeasure with China's action. It is also the only prudent course in light of the State Department's briefing that they could not guarantee the safety of Americans traveling to the conference.

I ask unanimous consent that a copy of the letter, and a copy of a Wall Street Journal article by Nina Shea, "Free Harry Wu" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 13, 1995.

The PRESIDENT,
The White House,
Washington, DC.

DEAR MR. PRESIDENT: We are writing to express our support for your efforts to secure the release of Harry Wu. It is unconscionable

that an American citizen traveling on a valid passport with a valid Chinese visa was arrested, detained and charged in violation of accepted international law. Furthermore, it is an outrage that access to Mr. Wu by American officials was not granted according to the terms of the U.S.-P.R.C. Consular Convention of 1982.

Harry Wu has undertaken heroic efforts to expose Chinese human rights abuses. For almost two decades, he suffered from the ravages of China's prison system. Today, Harry Wu is once again subject to China's closed prison system, and there are concerns about his health and safety.

We are aware that your Administration had planned to participate in the Fourth United Nations Conference on Women, scheduled to be held in September in Beijing. In our view, it would be wholly inappropriate to participate in any international conference in the People's Republic of China while an American citizen is being unjustly detained by the Chinese government. There is ample precedent to deny American participation in international events which only accord prestige to regimes which deserve condemnation—the boycott of the 1980 Olympics in Moscow in the aftermath of the invasion of Afghanistan comes to mind.

Accordingly, we urge you to announce the United States government will not participate—at any level or in any fashion—in the upcoming United Nations Conference on Women as long as Harry Wu is detained in China. Anything less would send a tragic signal of disregard for the human rights of an American citizen.

Sincerely,

NEWT GINGRICH.
BEN GILMAN.
CHRIS SMITH.
BOB DOLE.
JESSE HELMS.
ALFONSE D'AMATO.

[From the Wall Street Journal, July 3, 1995]

FREE HARRY WU
(By Nina Shea)

On June 19, Harry Wu, a 58-year-old American, was arrested by Chinese authorities at the Kazakhstan border. Mr. Wu's passport was in order and he had recently been issued a Chinese entry visa, valid until Sept. 11, 1995. No outstanding charges or arrest warrants were pending against him. No incriminating evidence was found on him or his American traveling companion at the time of the arrest. No charges have been made public against him to date. While his companion has been expelled from China, he remains held incommunicado at an undisclosed location.

The reason the Chinese are detaining Mr. Wu is obvious. In his book "The Power of the Powerless," Vaclav Havel wrote that "living the truth" is "the fundamental threat" to the post-totalitarian system, and thus it is "suppressed more severely than anything else." Mr. Wu is a bald critic of the repressive human-rights policies of Beijing, and the Chinese fear nothing more than the truth he witnesses.

Mr. Wu made a daring trip to China last year to conduct independent investigations into the forcible removal of prisoner organs for transplant and the export of prisoner-produced goods to the U.S. His award-winning documentation aired on American and British television. Mr. Wu's autobiography, "Bitter Winds," is a devastating expose of the Chinese prison work camps, or *laogai*. Mr. Wu knew well of what he wrote; after criticizing the Soviet invasion of Hungary. He was arrested at the age of 23 for being a "rightist," a charge that was "corrected" at the time of his release in 1979, after he had served 19 years in the *laogai*.

Harry Wu is a hero of our time. He is a human rights dissident of the stature of Mr. Havel, Andrei Sakharov and Anatoly Shcharansky. Like them, he suffered for his principles and spoke of the atrocities of dictatorship from personal experience. And like them, he risked all to give relentless voice to others who are victimized into silence. Through the Laogai Institute, the human rights group he founded, Mr. Wu has painstakingly tracked down other deeply traumatized, former prisoners of the *laogai* who are in exile throughout the world, encouraging them and providing them with opportunities to tell their stories.

Mr. Wu's last public appearance in the U.S. was at a Puebla Institute-Wethersfield Institute seminar in New York in May, where he briefed American businesses about continuing human rights persecution against Christian churches in China. At a time when the West would rather believe that China, with its new markets, has changed, Mr. Wu would not let it be forgotten that China's one-party Communist political structure and military apparatus remain intact and operational.

In New York, he told the American business community: "The core of the human rights issue in China today is that there is a fundamental machinery for crushing human beings—physically, psychologically and spiritually—called the *laogai* camp system, of which we have identified, 1,100 separate camps. It is also an integral part of the national economy. Its importance is illustrated by the fact that one third of China's tea is produced in *laogai* camps. Sixty percent of China's rubber vulcanizing chemicals are produced in a single *laogai* camp in Shenyang. One of the largest steel pipe works in the country is a *laogai* camp. I could go on and on. The *laogai* system is: 'Forced labor is the means; thought reform is the aim.' . . . The *laogai* is not simply a prison system; it is a political tool for maintaining the Communist Party's totalitarian rule."

For now, Harry Wu has disappeared once again into China's closed penal system. But the U.S. must not forget him. Because he is an American citizen, and because he embodies the best of the indomitable human spirit, the Clinton administration must take extraordinary steps to secure his release. If Mr. Wu is not freed, the U.S. should withdraw from the Fourth United Nations Conference on Women to be held in Beijing in September. This conference is a world-wide summit on the state of human rights as they pertain to women. Since China lost its bid in 1993 to host the Summer Olympics due to its poor human rights record, it has been eager for the prestige accorded a country chosen for this paramount human rights gathering.

At the very time China is violating the human rights of a heroic American citizen, it would be nothing less than craven for the U.S. to lend prestige to China by designating a high-level human rights delegation for the Beijing conference—one to be led by first lady Hillary Rodham Clinton and United Nations Ambassador Madeleine Albright and Timothy Wirth, assistant secretary of state for global affairs. To conduct international diplomatic business-as-usual on the topic of human rights theory as a guest of the very country that is imprisoning, without any human rights, one of our own citizens would be a cynical betrayal, not only of Mr. Wu but of human rights in general.