NO. 24–856

IN THE
SUPREME COURT OF THE UNITED STATES

Cisco Systems, Inc., John Chambers,
and Freddy Cheung,
Petitioners,

v.

Doe I, Doe II, Ivy He, Doe III, Doe IV, Doe V,
Doe VI, Charles Lee, Roe VII, Roe VIII, Liu
Guifu, Doe IX, Weiyu Wang, and Those
Individuals Similarly Situated,
Respondents.

On Petition for Writ of *Certiorari*
to the U.S. Court of Appeals for the Ninth Circuit

Brief of Members of Congress as *Amici Curiae* in Support of Respondents and in Opposition to the Petition for Writ of Certiorari

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INTEREST OF *AMICI CURIAE*

This Brief of *Amici Curiae* is respectfully submitted in support of the Respondents and in opposition to the Petition for Writ of Certiorari.[1]

Amici are Members of Congress.[2] In this capacity, they represent the interests of their constituents. They are familiar with the important role of Congress in developing and supporting U.S. foreign policy. They are deeply committed to protecting religious freedom and democratic governance. They have also worked on legislation addressing these fundamental rights throughout the world, including China.

Amici believe this litigation raises issues of vital importance to the United States and that it should be allowed to proceed. The issues raised by the Petitioners do not justify interrupting this litigation, nor do they merit Supreme Court review. *Amici* are particularly troubled by Petitioners' suggestion that Congress has somehow acquiesced in their transactions with the Chinese government and does not object to the transactions that gave rise to this litigation.

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[1] No counsel for a party authored this brief in whole or in part, and no such counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than the *amici curiae*, or their counsel, made a monetary contribution to its preparation or submission. Counsel for both parties received timely notice of the intent to file this brief.

[2] The full list of *Amici* appears in the Appendix.

Given their unique role in the legislative process and in the development of U.S. foreign policy, *Amici* believe they can offer this Court a unique perspective. They believe their submission will assist the Court in its deliberations.

SUMMARY OF ARGUMENT

In the United States, Congress plays a vital role in developing and supporting the core values of this country. These values include respect for human rights, such as freedom of religion and freedom from torture. These values have existed since the founding of the Republic.

The legislative record makes clear that this case should be allowed to proceed. Congress has expressed repeated concerns about the human rights situation in China. It has highlighted the threats faced by political dissidents and religious minorities in China. It has also identified the problem of U.S. corporate complicity in the transfer of surveillance technology to China. A review of the U.S. Code, the Congressional Record, and the Federal Register offers ample evidence. As Members of Congress, we can attest to the vital function of federal legislation to support U.S. foreign policy interests.

ARGUMENT

In this case, several victims of religious persecution in China sued Cisco Systems, Inc. ("Cisco") for its role in facilitating serious human rights abuses, including torture of Falun Gong believers. Through a pair of duly enacted federal

statutes, these victims sought to hold Cisco accountable. After a lengthy journey through the federal courts, the Ninth Circuit determined that this case should be allowed to proceed. Doe I v. Cisco Systems, Inc. 73 F.4th 700 (9th Cir. 2023). Yet again, Cisco seeks to terminate these proceedings, suggesting that they are inconsistent with U.S. law and contrary to U.S. foreign policy. They are wrong on both counts.

I. SUPREME COURT REVIEW IS UNNECESSARY BECAUSE THIS CASE IS WHOLLY CONSISTENT WITH FEDERAL LAW AND U.S. FOREIGN POLICY, WHICH HAVE LONG SOUGHT TO ADDRESS SERIOUS HUMAN RIGHTS ABUSES IN CHINA

For over two decades, Congress has devoted significant attention to the human rights situation in China.[3] The repression of political dissent is an ongoing concern. The harms suffered by religious minorities in that country, including Falun Gong believers, have generated numerous bipartisan legislative responses. Congress has also expressed concern about the role of U.S. corporations, including those in the tech industry, in the repression of basic rights by the Chinese government. *See, e.g., The Internet in China: A Tool for Freedom or Suppression?*, Joint Hearing Before Subcomm. of the H. Comm. on International

[3] *See generally* CONG. RES. SERV., HUMAN RIGHTS IN CHINA AND U.S. POLICY (Dec. 2, 2024), https://crsreports.congress.gov/product/pdf/R/R48288#.

Relations, 109th Cong., at 1 (Feb. 15, 2006) ("We are here to examine a problem that is deeply troubling . . . and that is that American technology and know-how is substantially enabling repressive regimes in China and elsewhere in the world to cruelly exploit and abuse their own citizens.") (statement of Rep. Christopher H. Smith). [4]

[4] The 2006 joint congressional hearing transcript is available at: https://www.congress.gov/109/chrg/CHRG-109hhrg26075/CHRG-109hhrg26075.pdf. Congress has convened similar hearings on several occasions. *See, e.g.*, *Surveillance, Suppression, and Mass Detention: Xinjiang's Human Rights Crisis*, Hearing Before the Cong.-Exec. Comm'n on China, 115th Cong. at 64 (July 26, 2018) ("The Chinese government and Communist Party are equal opportunity oppressors—targeting unregistered and registered Christians, Tibetan Buddhists, Falun Gong practitioners, and others with harassment, detention, imprisonment, and more.") (statement of Sen. Marco Rubio); *Global Internet Freedom: Corporate Responsibility and the Rule of Law*, Hearing Before the Subcomm. on Hum. Rts. & the Law of the S. Comm. on the Judiciary, 110th Cong., at 3 (May 20, 2008), https://www.congress.gov/110/chrg/CHRG-110shrg45688/CHRG-110shrg45688.pdf ("Human rights groups have accused Cisco of providing network equipment that forms the backbone of the Great Firewall of China and is used by other repressive countries to censor Internet and monitor users. I want to note that last week the Subcommittee received some troubling information about Cisco's activities in China, which has been reported in the press, and I have had a meeting with Cisco, Mr. Chandler and others, to discuss it. This information has been shared with them and will be discussed further today.") (statement of Sen,. Richard J. Durbin); *Yahoo! Inc's Provision of False Information to Congress,* Hearing before the H. Comm. on For. Aff., 110th Cong., at 5 (Nov. 6, 2007),

Corporate complicity in the actions of the Chinese government has generated national and international concern.[5] Because this case is wholly consistent with federal law and U.S. foreign policy, the Petitioner's arguments are misplaced, and Supreme Court review is unnecessary.

In 2000, Congress established the Congressional-Executive Commission on China ("CECC") to monitor human rights and the rule of law in China.[6] Pub. L. No. 106–286, § 301, 114 Stat. 880 (2000). The CECC is a bipartisan body that

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https://www.govinfo.gov/content/pkg/CHRG-110hhrg38820/pdf/CHRG-110hhrg38820.pdf ("The greatest threat to repressive societies and repressive regimes is access by their subject populations to uncensored information, because independent information results in independent judgment which leads directly to independent action.") (statement of Rep. Ileana Ros-Lehtinen).

[5] *See, e.g.,* Ellie Bacon, *The Link Between Trade and Human Rights: Combating Human Rights Abuses in Xinjiang*, 112 GEO. L.J. 1205 (2024); Khurram Nasir Gore, *Xiaoning v. Yahoo!" Piercing the Great Firewall, Corporate Responsibility, and the Alien Tort Claims Act*, 27 TEMP. J. SCI. TECH. & ENVTL. L. 97 (2008); Surya Deva, *Corporate Complicity in Internet Censorship in China: Who Cares for the Global Compact or the Global Online Freedom Act*, 39 GEO. WASH. INT'L L. REV. 255 (2007); HUM. RTS. WATCH, "RACE TO THE BOTTOM:" CORPORATE COMPLICITY IN CHINESE INTERNET CENSORSHIP (2006); Jill R. Newbold, *Aiding the Enemy: Imposing Liability on U.S. Corporations for Selling China Internet Tools to Restrict Human Rights*, 2003 U. ILL. J.L. TECH. & POL'Y 503 (2003).

[6] The CECC's functions are codified at 22 U.S.C. §§ 6911 et seq.

includes both legislative and executive branch members. It has held numerous hearings on the human rights situation in China and consulted with many experts.[7]

The CECC has addressed political repression and persecution of religious minorities in China, including Falun Gong practitioners. *See, e.g., Falun Gong in China: Review and Update*, H. Before the Cong.-Exec. Comm'n on China, 112th Cong. (Dec. 18, 2012); [8] *China's Policies Toward Spiritual Movements*, Roundtable Before the Cong.-Exec. Comm'n on China, 111th Cong. (June 18, 2010).[9] Indeed, the persecution of religious minorities in

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[7] *See generally CECC at 20: Two Decades of Human Rights Abuse and Defense in China*, H. Before the Cong.-Exec. Comm'n on China, 117th Cong. (Dec. 13, 2022), https://www.govinfo.gov/content/pkg/CHRG-117jhrg50186/pdf/CHRG-117jhrg50186.pdf.

[8] The 2012 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/hearings/2012/CECC%20Hearing%20-%20Falun%20Gong%20in%20China%20Review%20and%20Update%20-%2012.18.12.pdf. *See also* CECC Chairs' Statement on 20th Anniversary of the Crackdown on Falun Gong (July 20, 2019), https://www.cecc.gov/media-center/press-releases/chairs-statement-on-20th-anniversary-of-crackdown-on-falun-gong.

[9] The 2010 CECC roundtable hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/roundtables/2010/CECC%20Roundtable%20-%20China%27s%20Policies%20Toward%20Spiritual%20Movements%20-%206.18.10.pdf

China has remained a top congressional priority for decades. *See, e.g., Religious Freedom in China*, H. Before the Cong.-Exec. Comm'n on China, 108th Cong. (Nov. 18, 2004);[10] *Roundtable on Religious Freedom in China*, Roundtable Before the Cong.-Exec. Comm'n on China, 107th Cong. (March 25, 2002).[11]

The CECC has also addressed U.S. corporate complicity in human rights abuses committed by the Chinese government.[12] *See, e.g., Corporate*

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[10] The 2004 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/hearings/2004/CECC%20Hearing%20-%20Religious%20Freedom%20in%20China%20-%2011.18.04.pdf.

[11] The 2002 CECC roundtable hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/roundtables/2002/CECC%20Roundtable%20-%20Roundtable%20on%20Religious%20Freedom%20in%20China%20-%203.25.02.pdf.

[12] Members of Congress have expressed repeated concerns about the complicity of U.S. corporations in Chinese surveillance of religious minorities and political dissidents. *See, e.g.,* 157 Cong. Rec. E2088 (daily ed. Nov. 17, 2011) (statement of Rep. Frank Wolf) ("American companies ought to represent American values. Instead, it seems that time and again major U.S. corporations are embracing Chinese government policies that are completely at odds with what America represents."); 152 Cong. Rec. E608–09 (daily ed. Apr. 26, 2006) (statement of Rep. Christopher H. Smith) ("It is important to note that the freedoms that we enjoy in America allow individuals to publish information and news on the Web unfiltered. Those freedoms do not exist in China. Individuals

Complicity: Subsidizing the PRC's Human Rights Violations, H. Before the Cong.-Exec. Comm'n on China, 118th Cong. (July 11, 2023).[13] The CECC has expressed concern when U.S. corporations sell surveillance and crime control technology to Chinese security forces and police. *See, e.g.,* Letter to Secretary of Commerce Wilbur Ross, from Sens. Marco Rubio and Chris Smith Regarding Sale of Surveillance Technology to Chinese Police (May 9, 2018).[14]

In December 2024, the CECC issued its most recent report about the human rights situation in China. *See* Congressional-Executive Commission on

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who attempt to speak freely are imprisoned and even tortured. At the very least, U.S. corporations should not be aiding and abetting that process. Yet at a February hearing I chaired on the Internet in China, we learned in greater—and disturbing—detail, how some of the biggest corporations in America have partnered with the much-hated Chinese secret police to find, apprehend, convict and jail religious believers and pro-democracy advocates. . . . Amazingly, Cisco showed no seller's remorse whatsoever that its technology—especially 'Policenet'—a tool for good in the hands of honest cops and legitimate law enforcement, but a tool of repression in the hands of Chinese police has now effectively linked and exponentially expanded the capabilities of the Chinese police.").

[13] The 2023 CECC hearing transcript is available at: https://www.govinfo.gov/content/pkg/CHRG-118jhrg53486/pdf/CHRG-118jhrg53486.pdf.

[14] The May 2018 CECC letter is available at: https://www.cecc.gov/sites/evo-subsites/www.cecc.gov/files/CECC%20Chair%20Letter%20to%20Commerce%20re%20Export%20Controls.pdf.

China, 2024 Annual Report (Dec. 2024). [15] Significantly, the report expressed concern with the complicity of U.S. corporations in human rights abuses committed in China. *Id.* at 1. The CECC referred to this as "the subsidization of tyranny." *Id.* at 3. The report examined the role of corporations in supporting China's data collection and surveillance programs. *Id.* at 216. And, in fact, the CECC specifically highlighted the litigation in this case. *Id.* at 217–18.

Reflecting its commitment to addressing the human rights situation in China, Congress has approached this issue from multiple perspectives. In 2010, for example, the House passed a resolution expressing significant concern with religious persecution in China. H.R. Res. 605, 111th Cong. (2010). The bill focused on the Chinese persecution of Falun Gong practitioners. In 2016, the House passed a similar resolution. H.R. Res. 343, 114th Cong. (2016).

In 2025, Congress has made clear that addressing Chinese human rights abuses—from religious persecution to political suppression—remains a top priority.[16] On January 30, 2025, the

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[15] The 2024 CECC report is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/2024-12/2024-CECC-Annual-Report.pdf.

[16] On April 1, 2025, the Senate Subcommittee on Investigations sent a letter to Meta Platforms expressing concern about its "alleged work to build censorship tools for the Chinese Community Party . . . ." Letter to Mark

Senate Foreign Relations Committee conducted a hearing addressing the dangers posed by the Chinese government, including the use of advanced technology by the Chinese government to conduct surveillance operations. *The Malign Influence of the People's Republic of China at Home and Abroad: Recommendations for Policy Makers*, S. Comm. on For. Rel., 119th Cong. (2025). On March 3, 2025, members of Congress introduced the Falun Gong Protection Act in both the House and Senate to confront religious persecution by the Chinese government.[17] H.R. 1540, 119th Cong. (2025). Significantly, the bill announces it is the policy of the United States "to work with allies, partners, and multilateral institutions to highlight the People's Republic of China's persecution of Falun Gong; [and] to coordinate closely with the international community on targeted sanctions and visa restrictions." *Id.* §2.

In sum, Congress has repeatedly expressed concern with the human rights situation in China. It has denounced religious persecution by the Chinese government. It has also expressed concern about U.S. corporate complicity in the transfer of

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Zuckerberg, Chief Executive Officer, Meta Platforms, Inc., from Senators Ron Johnson, Josh Hawley, and Richard Blumenthal, Permanent Subcommittee on Investigations, U.S. Senate (April 1, 2025), https://www.hsgac.senate.gov/wp-content/uploads/2025.04.01-PSI-Letter-to-Meta-Johnson-Blumenthal-Hawley-1.pdf.

[17] While the bill focuses on the forced harvesting of human organs, it also addresses the persecution of Falun Gong.

surveillance technology to China. Clearly, this case is neither inconsistent with U.S. law nor contrary to U.S. foreign policy.[18]

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[18] While this brief has focused on congressional action, the Executive branch has made similar findings. For example, the State Department's annual human rights reports have consistently addressed the suppression of basic rights in China, including religious persecution and the use of electronic surveillance to suppress dissent. *See, e.g.,* U.S. Dep't of State, 2023 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet) https://www.state.gov/reports/2023-country-reports-on-human-rights-practices/china/ (addressing persecution of Falun Gong members); U.S. Dep't of State, 2022 Country Reports on Human Rights Practices: China (Includes Hong Kong, Macau, and Tibet), https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/china/ (addressing the use of electronic surveillance to monitor speech and dissent). In addition, the State Department, in coordination with the Department of the Treasury, the Department of Commerce, the Department of Homeland Security, the Department of Labor, and the Office of the U.S. Trade Representative has issued repeated supply chain business advisories highlighting the potential complicity in human rights abuses of U.S. corporations doing business in China. *See, e.g.,* U.S. Dep't of State et al., *Xinjiang Supply Chain Business Advisory Addendum* (Sept. 26, 2023), https://www.state.gov/wp-content/uploads/2023/09/Xinjiang-Business-Advisory-Addendum-July-2023-FINAL-Accessible-09.26.2023.pdf. The United States Commission on International Religious Freedom has also expressed concerns with China's suppression of religious groups, including its efforts to eradicate the Falun Gong. *See, e.g.,* U.S. COMM'N ON INT'L RELIGIOUS FREEDOM, RELIGIOUS FREEDOM IN CHINA'S HIGH-TECH SURVEILLANCE STATE (Sept. 2019).

II. THE TIANANMEN SQUARE ACT DOES NOT OFFER ANY SUPPORT FOR THE PETITIONERS' TRANSACTIONS WITH THE CHINESE GOVERNMENT

Throughout this litigation, the Petitioners have suggested that this case would interfere with extant trade regulations adopted by Congress. Doe I, 73 F.4th at 723. They even suggest that U.S. legislation implicitly authorized their transactions with Chinese law enforcement and that this litigation would somehow undermine U.S. foreign policy. Petition for Writ of Certiorari at 7, 22, Cisco Systems, Inc., v. Doe I (2025) (No. 24–856) ("Petition for Certiorari"). A cursory review of congressional action reveals otherwise.

In their Petition for Certiorari, Petitioners cite to the Foreign Relations Authorization Act for Fiscal Years 1990 and 1991, Pub. L. No. 101–246, 104 Stat. 15 (1990) ("Tiananmen Square Act"), to suggest that Congress did not believe that the transfer of software or technology products to China was problematic. Petition for Certiorari at 7. Yet, this assertion fails to address the overwhelming legislative record condemning the very actions that gave rise to this litigation.

Petitioners indicate that the Tiananmen Square Act and ensuing regulations "did not include software and technology products" in the list of restricted crime-control equipment that could be sent to China. Petition for Certiorari at 7. They suggest that this omission reflects that Congress and the Commerce Department "had carefully balanced the importance of ongoing trade with China against human-rights concerns after

Tiananmen Square." *Id.* at 22. Contrary to their assertion, there is simply nothing in the legislative record to support this assertion. In fact, the opposite is true.[19]

The Tiananmen Square Act contains detailed findings of fact that the Chinese government had engaged in "an unprovoked, brutal, and indiscriminate assault on thousands of peaceful and unarmed demonstrators and onlookers in and around Tiananmen Square." 104 Stat. 80, § 901(a)(1). The Act described that the Chinese government had executed dozens of individuals who participated in the pro-democracy demonstrations and arrested thousands of protestors. *Id.* at § 901(a)(2)–(4). For these reasons, Congress indicated "[i]t is the sense of the Congress that . . . the resumption of normal diplomatic and military relations . . . will depend directly on the Chinese Government's halting of executions of prodemocracy movement supporters, releasing those imprisoned for their political beliefs, and increasing respect for internationally recognized human rights; . . ." *Id.* at § 901(b)(4).

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[19] It is absurd to suggest that congressional silence on the technology at issue in this case indicates a permissive congressional intent. This law was adopted well before the advent of public access to the Internet. Indeed, the specific prohibitions in the law addressed known technologies and indicated an intention to prohibit rather than permit the type of support to the Chinese government that Petitioners are alleged to have provided.

It would be wholly inconsistent with Congress's detailed findings of fact and the corresponding statement of policy to assert that the Tiananmen Square Act and the ensuing regulations offer any support for the Petitioners' transactions with the Chinese government. Indeed, Congress's statements and actions since adopting the Act thirty-five years ago should make this pellucidly clear. *See, e.g., Tiananmen at 35: The Ongoing Struggle for Human Rights and Democracy in China*, H. Before the Cong.-Exec. Comm'n on China, 118th Cong. (June 4, 2024);[20] *Tiananmen at 30: Examining the Evolution of Repression in China*, H. Before the Cong.-Exec. Comm'n on China, 116th Cong. (June 4, 2019);[21] *Tiananmen at 25: Enduring Influence on U.S.-China Relations and China's Political Development*, H. Before the Cong.-Exec. Comm'n on China, 113th Cong. (May 20, 2014); [22] *The 20th Anniversary of the Tiananmen Square Protests: Examining the Significance of the 1989 Demonstrations in China and Implications for U.S. Policy*, H. Before the

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[20] The 2024 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/www.cecc.gov/files/evo-media-document/CHRG-118jhrg55894.pdf.

[21] The 2019 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/Hearing%20Transcript_0.pdf.

[22] The 2014 CECC hearing transcript is available at: https://www.congress.gov/event/113th-congress/house-event/LC23425/text.

Cong.-Exec. Comm'n on China, 111th Cong. (June 4, 2009); [23] *Fifteen Years After Tiananmen: Is Democracy in China's Future*, H. Before the Cong.-Exec. Comm'n on China, 108th Cong. (June 3, 2004).[24]

Rather than supporting Petitioners' transactions with the Chinese government, the legislative record establishes clearly and consistently that Congress has condemned the very actions that gave rise to this lawsuit.

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[23] The 2009 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/hearings/2009/CECC%20Hearing%20-%20The%2020th%20Anniversary%20of%20the%20Tiananmen%20Square%20Protests%20-%206.4.09.pdf.

[24] The 2004 CECC hearing transcript is available at: https://www.cecc.gov/sites/evo-subsites/cecc.house.gov/files/documents/hearings/2004/CECC%20Hearing%20-%2015%20Years%20After%20Tiananmen%20Is%20Democracy%20in%20China%27s%20Future%20-%206.3.04.pdf.

CONCLUSION

For these reasons, *Amici* respectfully request that this Court reject the petition for certiorari. This litigation should be allowed to proceed.

Respectfully submitted, April 14, 2025

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APPENDIX