

Congressional-Executive Commission on China

Testimony of Patrick Griffith¹, Program Attorney for Freedom Now and Co-International *Pro Bono* Legal Counsel to Liu Xiaobo and Liu Xia.

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Good afternoon Mr. Chairman and Mr. Co-Chairman and thank you for the opportunity to join you today. The Congressional-Executive Commission is an essential source for information about human rights violations in China, and I want to begin by thanking the Commissioners and the staff for their unwavering support for prisoners of conscience.

As an attorney with Freedom Now and as international *pro bono* counsel to the Lius, my testimony today will focus on why the detention of Dr. Liu Xiaobo and his wife Liu Xia is a flagrant violation of China's obligations under international law. In addition to a brief discussion of recent developments in the case, I will explain in our view what steps the United States can take, in light of their continued detention, to lead a growing international movement to free them.

The circumstances of Dr. Liu's detention are widely known and largely undisputed, even by the Chinese government. Dr. Liu became a prolific essayist after being detained and barred from teaching or publishing in the country following his public support of student protesters in 1989. At the time of his arrest, Dr. Liu was leading an initiative called Charter '08. Modeled on the Czechoslovakian Charter '77, the Chinese manifesto called for a peaceful transition to multi-party democracy and respect for fundamental human rights in China. Detained at an unknown location for six months, without charge or access to legal counsel, Dr. Liu was ultimately accused of "inciting subversion" of the state and its socialist system. The prosecution's indictment, like the court's judgment on December 25, 2009 sentencing Dr. Liu to 11 years in

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prison, specifically relied on his writings as proof of his guilt.

Shortly after the Norwegian Nobel Committee announced the following October that it would award the Peace Prize to Dr. Liu, “in recognition of his long and non-violent struggle for fundamental human rights in China,” the government placed Dr. Liu’s wife, Liu Xia, under house arrest. Two years later, she remains cut-off from the outside world without even the pretense of legal process. Just last week, reporters from the *Associated Press* managed to reach Liu Xia and described the desperate situation she faces. In her first interview in over two years, Liu Xia confirmed that she has been confined to her home, unable to communicate with the outside world, except for weekly trips to buy groceries and visit family. She described her continued house arrest as “painfully surreal” and noted that although she initially felt prepared for the consequences of the Peace Prize, she never imagined she would be unable to leave her home. After two years of house arrest, Liu Xia was described as looking frail and frequently confined to bed due to back pain. “I don’t keep track of the days anymore” she said.

The prosecution of Dr. Liu and the lack of due process afforded to him clearly violate China’s international obligations. China has signed the International Covenant on Civil and Political Rights, which specifically protects the right to peaceful freedom of expression. These international protections apply regardless of whether Chinese domestic law punishes peaceful political expression as “subversion” and the government’s constant refrain that Dr. Liu’s imprisonment is the result of a criminal prosecution is simply irrelevant. Further, as internationally protected rights, their violation is the proper concern of the international community—not merely an issue of domestic “judicial sovereignty.”

The violation of Liu Xia’s rights is even more appalling. Despite a mountain of evidence to the contrary, the Chinese government has claimed that “no legal enforcement measure has

been taken” against her. This claim is either a lie or an admission of guilt, and as amplified by the recent reports about the toll her house arrest is taking, it is also incredibly cruel. Most strikingly, Liu Xia’s continued detention is patently illegal—nothing under domestic or international law authorizes the indefinite detention of a person, without any due process whatsoever, for the crime of being married to a Nobel Laureate.

In response to petitions filed by Freedom Now on behalf of Lius, the United Nations Working Group on Arbitrary Detention found their continued detentions to be arbitrary under international law. Despite this finding by the United Nations, and its call for their immediate release, life for Dr. Liu and Liu Xia remains unchanged since he received the Nobel Peace Prize two years ago. Unfortunately, this lack of progress can also be seen in other Chinese cases, such as that of imprisoned rights lawyer Gao Zhisheng. As Mr. Gao’s wife described to this Commission in February, the Chinese government has repeatedly disappeared and tortured Mr. Gao because of his support for religious minority groups, workers, and victims of land seizures. After holding Mr. Gao *incommunicado* for 20 months, the government announced at the end of last year that it would imprison him for an additional three years for allegedly violating the terms of a suspended sentence imposed in 2006 after Mr. Gao confessed to “inciting subversion” after interrogators threatened his family. As with Liu Xia, the total lack of due process afforded to Mr. Gao belies any notion that the Chinese government respects the “rule of law” it so frequently claims to uphold.

While the Chinese government’s intransigence on these cases is certainly frustrating, the international movement to free the Lius is gathering cohesion and momentum. Last week, the International Committee for Liu Xiaobo, a coalition of six Nobel Peace Prize Laureates and 15 non-government organizations, including our own, released a letter from 134 Nobel Laureates

calling for the immediate and unconditional release of the Lius. What is striking about the letter is not only the number of signatures, but also the diversity of its supporters. The letter, lead by Archbishop Desmond Tutu and Sir Richard Roberts was signed by Laureates from across all six Nobel disciplines, not just his fellow Peace Prize winners. Archbishop Tutu is also leading an effort to build a citizens' movement in support of the Lius. Launched with a petition on Change.org that mirrors the Laureate letter, the initiative surpassed 200,000 signatures from 82 countries in less than 48 hours and continues to gather support.

In light of this growing citizens' movement, there are three ways that the United States can redouble its efforts and change its tactics in support of the Lius. As Representatives Frank Wolf (R-TX) and Jim McGovern (D-MA) of the Tom Lantos Human Rights Commission noted last Thursday during the launch of the Defending Freedoms Project, respect for human rights is a non-partisan issue and the United States has an essential role in speaking out against abuses.

First, as a Nobel Peace Prize Laureate himself, President Obama has the unique opportunity to take a leading role in the growing citizens' movement. Initiatives such as the Laureate letter organized Archbishop Tutu and Mr. Roberts provide Mr. Obama with a ready-made platform to highlight the continuing detention of the Lius. While the President did call for Dr. Liu's release shortly after he was announced as the recipient of the 2010 Nobel Peace Prize, we are disappointed that since then he has not publicly reiterated this call nor has he ever personally called for Liu Xia's release. The President's voice in support of the Lius has the potential to galvanize the international community. However, without the President's personal engagement on initiatives such as the Laureate letter, Beijing will receive the message that it can continue to detain Dr. Liu and Liu Xia in violation of international law without suffering any further public consequences.

Second, the United States should consistently and publicly hold the Chinese government accountable for its continued refusal to release the Lius. While there is certainly a role for quiet diplomacy, the situation for Dr. Liu and Liu Xia has remained largely unchanged over the last two years. Because the ultimate measure of success is their freedom, the anniversary of the Nobel award presents an opportune moment for the United States to reassess its approach. During the Cold War, many high-level bilateral meetings, regardless of topic, began with the U.S. representative raising concerns about political prisoners. Reinstating such tactics would send a clear message that the Chinese government's refusal to comply with international law is unacceptable.

Finally, the United States should take a leading role in multilateral efforts to support the Lius. For example, leadership on a letter from other G8 countries highlighting the continued detention of the world's only imprisoned Nobel Peace Prize Laureate would remind the incoming Chinese leadership that if it wants to join the community of nations as a full partner, it must do more than merely talk about human rights and the rule of law. It is our belief that even a private discussion about such a public multilateral effort could have real and positive impacts on the ground. Especially in light of the recent news about Liu Xia's plight, these kinds of international efforts are urgently needed.

My testimony today has focused on a handful of cases. Admittedly, they are among the hardest cases in one of the most difficult countries. The challenge of such high profile cases is that they often lead to multiple, but ultimately uncoordinated, initiatives. With Archbishop Tutu's efforts to develop an increasingly cohesive citizens' movement, this anniversary presents an important opportunity to refocus attention on the continued detention of Dr. Liu Xiaobo and his wife Liu Xia. While relations between the United States and China are necessarily complex,

respect for fundamental human rights must remain at the center of that relationship and the continued detention of the Lius is an important bellwether indicating that more must be done.