

**Testimony by Li Xiaorong for the Congressional-Executive Commission on China,  
December 6, 2011, hearing:**

**“One Year After the Nobel Peace Prize Award to Liu Xiaobo: Conditions for Political  
Prisoners and Prospects for Political Reform”**

Thank you, Mr. Chairman, Co-chairman, and CECC staff, for this opportunity to speak at the occasion marking the one year anniversary of the ceremony of the 2010 Nobel Peace Prize awarded to Liu Xiaobo, which was for the first time in history, awarded to a Chinese living inside China, or more precisely, in a jail cell in China’s northeastern province Jilin, and Mr. Liu has lost his freedom for 3 years now as of this Thursday.

This is also an occasion that marks the 3<sup>rd</sup> anniversary of the release of Charter 08, a manifesto of democracy and human rights by Chinese citizens. Nearly 13, 000 people have signed to endorse it so far. It was for advocating and promoting Charter 08 that Mr. Liu is imprisoned.

There is no better occasion, then, to address the issue of systematic violation by the Chinese authorities of the Chinese law and international human rights law, as evidenced in the persecution of Liu Xiaobo and many other Chinese for exercising their freedom of expression and for engaging in peaceful activism to promote democracy and human rights.

One year after winning the Nobel Peace Prize, Liu Xiaobo, the writer and well-known dissident, continues to languish in a Chinese prison without regular family visits. His wife Liu Xia has been under unlawful house arrest, largely cut off from communication with her friends and lawyers, with the outside world, since October 18, 2010.

Liu Xiaobo’s family, meanwhile, has been under heavy pressure by the government and only recently were able to convey some information about the Nobel laureate’s current situation to the press. One of Liu’s brothers reportedly said that Liu Xiaobo was allowed briefly out of jail on September 18 to mourn his father’s death, and that the brother and Liu Xia were each recently allowed a rare opportunity to visit Liu at Jinzhou Prison.

Back in 2009, on December 25, Liu Xiaobo was convicted of “inciting subversion of state power” by the Beijing No. 1 Municipal Court. Liu was sentenced to 11 years in prison, with 2-years’ deprivation of political rights. It was one of the longest sentences handed down for the so-called crime of “inciting subversion of state power” in recent years. Officials left no doubt that the legal system, despite any promise of reform, was simply the Communist Party’s tool to stamp out its critics.

And the crime of “inciting subversion of state power” is so vaguely ill-defined that it can be conveniently used by the CCP to serve their political purposes. Liu’s conviction was based entirely on his writings, expressions of his political opinions, and nonviolent activities. Having been writing social commentaries and political essays for the past 20 years despite imprisonment, detention, and police harassment, Liu Xiaobo unnerved the Communist Party

with new sparks of political dissent inspired by *Charter 08*, a bold challenge to the authoritarian one-Party rule unseen since the 1989 pro-democracy protests.

From the time of the arrival of policemen at Liu's home in Beijing on the evening of December 8, 2008 to his imprisonment incommunicado today, the persecution of Liu Xiaobo has been marred at each step by violations of his legal-constitutional rights and international human rights. For instance,

- From December 8, 2008, to June 23, 2009, Liu was held under “residential surveillance” at an undisclosed location in Beijing. Except for two police-escorted visits by his wife, Liu had no contact with the outside world. During this 6-month period, Liu was being held without being formally detained or arrested.
- Once Liu was formally arrested and allowed legal representation, officials barred his lawyer Mo Shaoping (莫少平) from representing Liu because Mo had signed *Charter 08* and was labeled a “co-defendant” in Liu's case by the authorities.
- Once Liu's case was turned over to the Beijing Municipal Prosecutor's office in early December 2009, his lawyers were given very little time to prepare his defense. Liu's lawyers were notified of the trial date only three days before it was set to begin, and the trial took place only twelve days after Liu was indicted on December 11.
- During the trial on December 23, 2009, Mr. Liu and his defense lawyers were not allowed to fully present their defense in court. The presiding judge interrupted Liu Xiaobo and cut him short during his prepared remarks. Liu's two lawyers, Shang Baojun (尚宝军) and Ding Xikui (丁锡奎), were given a total of less than 20 minutes to present their arguments on behalf of Liu during a trial, which lasted only three hours.
- Liu's trial was essentially closed to the public. With the exception of two family members—Liu's younger brother and his brother-in-law—all other spectators in the small courtroom were young males in plain clothes, apparently put there to occupy the seats in order to keep out Lu's other family members and supporters and observers from the diplomatic community. This is a typical ploy used often in politically sensitive trials to circumvent the legal requirement for “public” trials. Dozens of supporters, joined by reporters and diplomats from the Czech Republic, Germany, Canada, the US, the UK, Italy, Australia, Norway, Sweden, and EU were barred from observing the trial by security guards who blocked the entrance to the court, stating that all permits to observe the trial had been given out.
- Liu's wife, Liu Xia (刘霞), was denied permission to attend the trial after the authorities listed her as a witness for the prosecution. Police stood outside her apartment to block her from leaving or receiving visitors during her husband's trial. Several dozen supporters were prevented from leaving their homes in Beijing, and a dozen or so were detained on their way to the trial. One of Liu's two lawyers was momentarily harassed and blocked from entering the courtroom.

The practice of unlawful secret detention prior to Liu Xiaobo's sentence has profound ramifications and a chilling effect in the country's rapidly declining climate for “rule of law” reform in the last few years. Since then, the same kind of secret detention and enforced disappearance has been applied on multiple occasions, for example, to many activists and lawyers during the government crackdown on online calls for Tunisian style “Jasmine Revolution” protests last February, and to the artists Ai Weiwei. In February, within a few weeks, a total of 52 individuals were criminally detained, at least 24 were subjected to enforced

disappearance, 5 were sent to Re-education through Labor (RTL) facilities, 4 were placed under illegal residential surveillance outside of their homes, and 2 were held in psychiatric hospitals. Many of these activists, well-known for their fearless outspokenness, re-emerged several months later from disappearances tight-lipped about their mistreatment, torture and they appeared shaken. (See [http://chrinet.com/2011/08/17/jasmine\\_crackdown/](http://chrinet.com/2011/08/17/jasmine_crackdown/))

As we speak, in a revision of the Chinese Criminal Procedural Law under consideration in the Standing Committee of the National People's Congress, the government is trying to legalize such secret detentions or enforced disappearances. To ensure, once and for all, that the law cannot be used as a shield to protect human rights activists from the state's arbitrary power, in August 2011 the Chinese government announced plans to revise this law, which would effectively legalize the practice of enforced disappearance. Among the wide-ranging proposed revisions to the Criminal Procedure Law (CPL), one of the most alarming changes is Article 73 of the draft, which governs the use of "residential surveillance" by the police. Instead of being detained in their homes as in ordinary cases, suspects accused of "endangering state security, terrorist crimes and major bribery crimes" could be held in "a specified residence." Similarly, police could subject suspects charged with "endangering state security and terrorist crimes" to residential surveillance without having to notify their families within 24 hours, as required in ordinary cases.

So far, all hopes have been dashed if anyone had expected that the Chinese government would take some positive steps toward honoring the spirit of the Peace Prize and improving the human rights situation in China as a result of the Nobel Committee's historical decision. Awarding Liu Xiaobo the Nobel Peace Prize was no doubt a game changer. It drew unprecedented scrutiny to the Chinese government's systematic human rights abuses since 1989. After the Peace Prize, together with other precipitous events, those who had advanced the claim that, when it comes to China, there should somehow be double standards and human rights concerns should not get in the way of US trade and strategic priorities, are now on the defensive. We now find many politicians, diplomats, businessmen and academics largely on the same page about the importance in addressing China's human rights problems. The question remains, however, whether the international community is doing anything effective, or doing enough, to support those Chinese who risk their own life and liberty to fight for democracy and human rights, such like Liu Xiaobo, Chen Guangcheng, Gao Zhisheng, and many lesser known individuals such as Wang Lihong, Chen Wei, Liu Xianbin, or Ni Yulan.

The US government should be consistent in upholding the principles of freedom and human rights, whether the violations occur in Libya, Syria, Burma, Iran, or China. The administration should take the opportunity of the upcoming visit to the US by China's Vice President to call on the Chinese government to immediately release Liu Xiaobo and many other prisoners of conscience, end the house arrest of Liu's wife; and to urge the Chinese government to abandon the proposed revisions to the Criminal Procedural Law that would effectively legalize the practice of enforced disappearances. President Obama should demonstrate his moral leadership to obtain the immediate and unconditional release of his fellow Nobel Peace Prize laureate, Liu Xiaobo.