



**Testimony of Marian Botsford Fraser, Chair, Writers in Prison Committee, PEN International**

**Congressional-Executive Commission on China  
Hearing on “One Year After the Nobel Peace Prize Award to Liu Xiaobo:  
Conditions for Political Prisoners and Prospects for Political Reform”  
December 6, 2011**

Chairman Smith, Co-Chairman Brown, Members of the Commission:

My name is Marian Botsford Fraser, and I am the Chair of the Writers in Prison Committee of PEN International. Founded in 1921 and headquartered in London, PEN is the world’s oldest human rights and literary organization. Our programs to celebrate literature and promote freedom of expression are carried out by 144 centers in more than 100 countries, including PEN American Center in New York and PEN USA in Los Angeles, and our global membership includes many of the United States’ most distinguished writers. PEN International is a non-political organization and holds consultative status at the United Nations.

I am proud to chair the flagship program of PEN International, the Writers in Prison Committee, which in 2011 celebrated its 50th year of advocacy for persecuted writers and freedom of expression around the world. We work especially closely with our colleagues who are engaged in on-the-ground campaigning in countries where creative freedom and free expression are at risk. Among them are the members of Independent Chinese PEN Center, which just this year celebrated its own 10th anniversary and is one of the only NGOs still tolerated, though severely restricted, in China today. Liu Xiaobo, the 2010 Nobel Peace Prize laureate, is a former president of that center, and securing his release from prison is one of PEN’s highest priorities.

In Liu Xiaobo’s case and in all our international advocacy, we are guided by the human rights laws and norms that countries around the world are required to uphold. The right to freedom of expression is enshrined in both the Universal Declaration of Human Rights, which was created 63 years ago this Saturday, and the International Covenant on Civil and Political Rights (ICCPR), to which nearly all states are party but for 19 U.N.-recognized states which have neither signed nor ratified it. The People’s Republic of China is among seven states that have signed the covenant but have not yet ratified it.

The freedom of expression clause is nearly the same in both instruments, and is represented under the same article, Article 19. Article 19 of the ICCPR states that:

*Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or print, in the form of art, or through any other media of his choice.*

Since China hosted the 2008 Beijing Summer Olympics—games it had secured by pledging to the world to expand protections for the human rights of its citizens—the Chinese government has

carried out three successive crackdowns on its citizens' right to freedom of expression; the first beginning with Liu Xiaobo's detention on December 8, 2008, in connection with Charter 08, the document that he and 302 co-signers planned to release two days later, on International Human Rights Day. Three years later, Liu Xiaobo's ordeal stands as a glaring example of China's failure to uphold its citizens' universally-guaranteed right to freedom of expression.

On December 25, 2009, a Beijing court convicted Liu of "inciting subversion of state power" and sentenced him to 11 years in prison. The verdict offered as evidence of this crime seven phrases that he penned from 2005 until his detention—all either quotations from his many essays or from Charter 08, which Liu had helped draft. In none of these phrases did Liu call for the overthrow of the government. He merely expressed opinions, offered critiques of the current state of affairs, and propounded ways to make life in the People's Republic of China better, more democratic, and more just.

Earlier this year, the U.N. Working Group on Arbitrary Detention reviewed Liu's case and ruled that he is being arbitrarily detained in violation of three critical tenets of international law, including Article 19. In its responses to the Working Group's questions about his treatment, the Chinese government argued that the charges and conviction did not violate Article 19's guarantee of freedom of expression because Article 19 also states that freedom of expression carries "special duties and responsibilities" and therefore may be "subject to certain restrictions," including the protection of national security or public order.

The working group, however, emphatically rejected this argument, noting that the proportionality that applies to these restrictions was not satisfied in this case, and ordered the Chinese government to free Liu Xiaobo immediately.

We welcome this clear decision by the U.N., as we have welcomed the strong denunciations of Liu's imprisonment from a number of distinguished organizations and bodies, including this commission. PEN has been doing everything we can to win Liu Xiaobo's immediate and unconditional release from Jinzhou Prison in Liaoning Province, and secure the right of all Chinese citizens, our writer colleagues included, to express themselves freely without fear of censorship, imprisonment, or harassment. PEN centers around the world have raised Liu's case with their own governments, urging them to join the international condemnation of this clear human rights violation. Our members have brought his plight and his voice to prominence and into the public eye through readings, rallies, articles, letters, petitions, and events. Some of our most prominent members around the world, like Wole Soyinka, Salman Rushdie, Margaret Atwood, J.M. Coetzee, Tom Stoppard, Paul Auster, and Don DeLillo, were the first to speak on Liu's behalf, signing an open letter calling for his release in January 2009.

We are proud to note that PEN American Center President Kwame Anthony Appiah was among the influential figures who nominated Liu for the Nobel Peace Prize in January 2010, and even more proud that these endeavors succeeded. In Oslo, on December 10, 2010, I was honored to be part of a PEN delegation that was invited to attend the ceremony where Liu was awarded the prize in absentia. But as gratified as we were by this international recognition of our colleague's efforts to promote peaceful change in China, we were shocked and saddened that the Chinese authorities responded to the award with a second crackdown, this one including the extrajudicial house arrest of his wife, Liu Xia, who has been unable to communicate with the outside world since shortly after the Nobel Committee announced its selection of Liu Xiaobo last October..

This crackdown was followed early this year by yet another, even more severe, wave of repression, this one targeting dissent thought to have been inspired by the revolutions in the

Middle East and affecting a number of PEN members in China. Ye Du, the Independent Chinese PEN Center webmaster, was detained on February 21, 2011, and placed under “residential surveillance” at an unknown location in Guangzhou Province for more than three months. Teng Biao, a renowned lawyer and the legal consultant for ICPC’s Writers in Prison Committee, was disappeared on February 19, and mysteriously freed two months later. Neither has yet spoken of his ordeal, and it was only recently that each began speaking out for freedom of expression in his country once again through social media.

It is worth noting that these arrests and disappearances violate not only international law, but China’s own constitution as well. Article 35 guarantees that “citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration.”

This summer, deeply concerned over this series of crackdowns, but equally impressed by the incredible endurance of our colleagues, who continue to assert their rights despite constant harassment, PEN sent a delegation to Beijing to gauge the level of repression and the current climate for freedom of expression, and deliver a message of solidarity to our colleagues. What we found in the weeks leading up to the trip and, more importantly, on the ground in China, was a mixture of absurd restrictions and repression on the one hand, and positive signs and hope on the other.

Professor Appiah, a very public nominator of Liu for the Nobel, was denied a visa for the trip. During his first attempts, his passport was inexplicably “lost” by consular officials. He got a new one, and applied again. Consular staff members then found his passport, but he was still denied, very likely for his nomination and activism on Liu’s behalf, including his own testimony before this commission last November. Another American staff member’s visa application was denied after consular officials held her passport for three weeks. She traveled to Hong Kong to lend real-time support while we were on the ground in the mainland.

In Beijing, we were incredibly thankful for the support of American embassy officials, who offered space and time for a roundtable discussion with a number of our Chinese colleagues. Of the 14 writers the embassy invited to the meeting, however, only three were able to come. Many were visited by the *guobao*, or security police, and received warnings not to attend. We could only assume that their telephone and Internet communications were monitored, and that the embassy’s may have been as well. Other, private meetings with individuals we arranged ourselves in private telephone conversations were canceled after visits from the *guobao* as well, suggesting our own communications were also being monitored.

One of our primary ambitions on the trip was to meet with Liu Xia at her apartment in Beijing, but with her compound still guarded by authorities and her Internet and telephone service still cut, we were cautioned not to attempt a visit. Nor could we visit with Teng Biao, who was still under a virtual gag order following his release, or Ye Du, with whom the PEN community has an especially strong bond thanks to his presence at our international meetings, and who indicated he would welcome a visit. We were told that, though he had returned home from months of detention, he was still under house arrest, and security police required him to check in several times a day at a guardhouse erected outside his residence, making it impossible for anyone to visit.

This was all extremely discouraging. We were frankly appalled by the intrusiveness of the surveillance state and the severity of the restrictions imposed on many of our PEN colleagues, even ones who are not alleged to have committed crimes. At the same time, we were surprised by

the widespread—indeed, almost universal—dissatisfaction with state of freedom of expression in China. Many of the writers that we were able to meet with, even those not considered “dissident” writers or associated with ICPC, decried the level of censorship, the self-censorship necessary for publication, and the one-party rule that has allowed this kind of repression to flourish.

These frank expressions seem to mirror the aspirations of China’s ordinary citizens. On the tail end of our trip, a high-speed train collided with another outside the city of Wenzhou in Zhejiang Province, killing 40 people and injuring almost 200. The government’s attempts to cover it up—which included trying to literally bury the train at the scene—sparked outrage around the country; in five days, Chinese citizens posted 25 million messages critical of the government’s handling of the accident on China’s microblogs. That campaign, which seemed unprecedented in its breadth and tenacity, has since been emulated in several other scandals and tragedies. These widespread criticisms of course caught the eye of censors, but not before the government was forced to reverse course and, in some instances, apologize.

Similarly, those who attempt to comment on the kinds of “politically sensitive” topics that dominate Liu Xiaobo’s essays, and even Liu Xiaobo himself, have discerned new ways to get past the censors, utilizing homonyms (“river crab” for “harmonize,” for example), taking and posting photographs of themselves silently supporting political prisoners, as in the “Dark Glasses” Campaign for the blind lawyer Chen Guangcheng, and using humor and satire. New forms of expression are being found to express bold new ideas throughout the country, despite the government’s heavy hand.

The Chinese government still does not allow the Independent Chinese PEN Center to function fully inside the country. Members are still monitored, gatherings are stopped, and members living outside the country are often prevented from visiting. After our time in Beijing, we celebrated ICPC’s 10th anniversary in Hong Kong. As the American and international delegates were preparing to leave, three ICPC members—including its president, Tienchi Martin-Liao, and prominent writers and ICPC founders Ma Jian and Bei Ling—were stopped at the border in Shenzhen and interrogated on their activities and their writings. And, of course, ICPC’s own Liu Xiaobo still lives inside a Chinese prison, one of four ICPC members still in jail, and one of more than 40 writers whose cases PEN is following today.

Still, there is an increased awareness of the plight of political prisoners within Chinese society, and a new questioning of the reasons for imprisoning these people in the first place. This fall, as the “Dark Glasses” campaign for Chen Guangcheng spread on China’s microblogs, ordinary citizens began to ask why this lawyer, who defended villagers in rural areas and exposed the persecution of those who defy China’s one-child policy, was being confined inside his home after his release from prison, his young daughter prevented even from attending school. Reports that thugs were keeping outsiders from entering his village in Linyi, Shandong Province, spread, and prompted some to try to visit Chen to see for themselves.

Murong Xuecun, a well-known and popular writer who we were lucky to meet while we were in Beijing, recently documented his own journey to Dongshigu village, and the beating that followed at its gates. Murong had advocated on Chen’s behalf on microblogs, but it was at the prompting of one of his students that he first seriously considered attempting to visit. He and his group of three other men and one woman decided that no matter what, they would not raise their fists if the guards raised theirs. In a harrowing account of the group’s encounter with the violent cadres that guard Chen that was published in *The Guardian* last month, he said “We just wanted to verify what it takes in this country, at this time, to visit an imprisoned ‘free man.’” Many others have done the same.

Chen Guangcheng still remains imprisoned in his own home, as does Liu Xia, and countless others are still watched closely, taken for tea, warned, harassed, and beaten. Liu Xiaobo sits quietly behind bars in a prison near the border with North Korea, and not many even know that one of their own won the Nobel Peace Prize. But this surge of activism, of citizens simply asking the question “why,” of seeking and imparting information, regardless of frontiers, lends hope that China is changing, and that change has begun with the people and their exercise of their internationally-protected, inalienable right to freedom of expression. People are coming to realize, as Murong said of Chen Guangcheng, that “at the moment his freedom was arbitrarily taken away, your freedom came under threat.”

One year ago this week, in his speech officially awarding Liu Xiaobo the Nobel Peace Prize, Norwegian Nobel Committee Chairman Thorbjørn Jagland noted that “There are many dissidents in China, and their opinions differ on many points”; but that “the severe punishment imposed on Liu made him more than a central spokesman for human rights. Practically overnight, he became the very symbol, both in China and internationally, of the struggle for such rights in China.” He went on:

*But as Liu also writes, “An enormous transformation towards pluralism in society has already taken place, and official authority is no longer able to fully control the whole society.” However strong the power of the regime may appear to be, every single individual must do his best to live, in his words, “an honest life with dignity.”*

On the anniversary of that important day, PEN would like to thank, again, the Norwegian Nobel Committee, this commission, and all the governments, organizations, and individuals around the world that have stood with Liu Xiaobo—and by standing with him, standing with all the citizens of China who share this most fundamental aspiration—and we ask everyone to redouble their efforts, so that by this time next year, he and his wife Liu Xia are free.