

**Congressional-Executive Commission on China
Hearing on Unjustly Detained Americans in China**

**Prepared Remarks by Jason Ian Poblete
Counsel and President of the Global Liberty Alliance**

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Chairman and Members of the Commission,

I want to thank you again for the opportunity to address this critical issue, not just as a lawyer and advocate but as someone who has witnessed firsthand the devastation that these unjust detentions bring to American families.

Today, my brief remarks are focused primarily on discussing the case of Mr. Mark Swidan, a U.S. citizen who has been unjustly detained in China for close to twelve years. Mark's case is an alarming example of a broader and more disturbing pattern of American citizens being caught in the web of China's deeply flawed and inhumane legal system.

You heard from Mark's mother, Ms. Katherine Swidan, through a prepared video statement recorded at her home in Luling, Texas. Her health challenges, sadly compounded by the strain of her son's prolonged detention, prevent her from being here in person. She carries her physical burdens and the emotional weight of this injustice that has continued for many years. For the Swidan family, every day Mark remains in detention is another day of unimaginable anguish.

I became involved with Mark's case just two years ago, and frankly, I was shocked—not only by the details of Mark's unjust detention – recognized by the UN Working Group on Arbitrary Detention – but by how little had been done for him up until that point. Even though Mark is an American citizen who is held under conditions that violate basic international human rights standards, his case has received little attention. There

was minimal public awareness, and the focus was scattered and inadequate within government circles.

What I quickly realized, though, was that Mark's case is not isolated. It is just the tip of the iceberg. As I dug deeper into Mark's situation, I was stunned to learn that many other Americans are suffering similar fates in China—imprisoned under dubious circumstances, subjected to an unfair legal process, and cut off from the protections they should be entitled to as American citizens. This problem extends far beyond what is typically covered in human rights reports prepared by the State Department.

Mark and Katherine are grateful that Congress has passed two resolutions on his matter, one in the House and another in the Senate, and of course, this hearing. They appreciate the work done by many in the executive branch and civil society to help in this case. Yet, Mark's case and others like it should never last a decade or more. It is unconscionable that Americans are locked up in Communist China for this long. That is a national failure, and we can and must do better.

For years, I have read countless human rights reports funded by U.S. taxpayers and U.S. assistance to NGOs that do essential work on human rights issues in China, Venezuela, Cuba, Iran, Nicaragua, and many other nations. The Global Liberty Alliance has also done that work and continues to do so. However, these reports overwhelmingly focus on the treatment of human rights abuses of foreign nationals in faraway lands, not the plight of Americans and other U.S. nationals unjustly detained in these nations.

While advocating for human rights in China is essential, our first responsibility must be protecting our citizens. If we fail to prioritize the safety and freedom of Americans and U.S. legal permanent residents, it becomes much harder to secure their release and undermines our credibility as a global advocate for human rights. We cannot effectively tell others how to address their injustices when we neglect to care for our people.

Chinese diplomats see this perceived lack of focus on our nationals as a weakness, and they exploit it, knowing we are distracted by broader issues. Protecting our people first

strengthens our position to hold others accountable for their actions and influence fundamental and individual rights globally.

American citizens like Mr. Swidan should be at the forefront of our human rights and foreign policy agenda. Too often, we see the rights of U.S. citizens sidelined in discussions about broader geopolitical or humanitarian issues. This must change. The U.S. government, including the State Department, needs to refocus its priorities to ensure that Americans wrongfully detained abroad, especially in hostile regimes like China, receive the highest level of attention and advocacy.

China's legal system is not comparable to our own. It lacks transparency, due process, and the rule of law. These are basic principles that the United States upholds, and we must hold China accountable for its failure to do the same. When American citizens are detained in China, they are subjected to a system that we, by our own assessments, have deemed abusive and unjust.

Therefore, every American detained in China, regardless of the alleged crimes, must be treated as unjustly detained under U.S. law. We cannot afford to accept Chinese court rulings at face value, especially when we know their legal process is fundamentally broken. One of the most troubling aspects of this issue is the tendency to equate the plight of Chinese nationals imprisoned in the U.S. with Americans detained in China.

Let me be clear—these are not the same. The U.S. legal system, while not perfect, is governed by the rule of law, fairness, and transparency. China's system is arbitrary, politically motivated, and often used as a tool of state control. We must stop treating these two situations as morally or legally equivalent. Americans detained in China deserve better, and we must advocate for them with that understanding firmly in mind.

Additionally, it is time for a more aggressive approach to holding Chinese officials accountable for these unjust detentions. We must impose real consequences on those responsible, including sanctions and visa bans for Chinese diplomats and officials involved in these cases. But sanctions and visa bans are tools, not a policy. We must

redouble efforts to make clear what it means to “bring Americans and other US nationals home.” It must be more than slogans, or a routine oversight and reporting issue.

We must also reconsider the privileges regime officials, and their families enjoy in the United States. Far too often, we see the family members of these same officials vacationing in the U.S., conducting business here, or even accessing our healthcare system. This is unacceptable.

Access to the United States should be considered a privilege, not a right, and those who are complicit in the unjust detentions of Americans should not be allowed to enjoy the benefits of our country while denying fundamental rights to our citizens. Reciprocity is earned, not freely given.

The U.S. government must protect its people, both at home and abroad. This means enforcing and perhaps improving current law, and not throwing more money at the challenge. Some political and moral courage can do wonders.

While we continue to champion human rights in China and elsewhere, we must maintain sight of the fact that our citizens are suffering under regimes that do not respect the rule of law. The time for half-measures and cautious diplomacy is over. We must take decisive action to bring Mark Swidan and other Americans home.

In conclusion, Mark’s case exemplifies a much larger problem and, perhaps, a crisis. I say *probably* since we do not have complete information about the scope of the problem. Yet there is no doubt in my mind that the U.S. government must commit itself fully to protecting its citizens abroad. This has yet to happen in Mark’s case and many other cases like it in China, Venezuela, Cuba, and other nations.

We need more transparency about how many Americans are currently detained in China, and we must ensure that all of them are treated as unjustly detained under U.S. law because there is no rule of law in Communist China. This demands a shift in

priorities at the State Department and across the government, placing the safety and freedom of American citizens above all else. Our ambassadors and diplomats are on the front lines as America's strongest advocates in these cases. Are they receiving the training and resources they need? What can we improve to support their efforts better?

While the SPEHA office or process is a topic for another hearing, the success or failure of these cases ultimately hinges on political will and moral courage from the highest levels of leadership—the President and Congress. Their commitment is what truly makes a difference, as does listening to people who have worked on these cases a long time, including experts in the private sector. Simply growing the government or throwing more money at the problem is not the answer. Solutions come from effective leadership, not expanding bureaucracy. If the President prioritizes it, good things will happen sooner rather than a decade or more later.

We also need real accountability for the Chinese government, which means imposing sanctions, visa bans, and other measures on those responsible for these injustices. Until we stand firm and demand justice for Americans detained in China, we will continue to see our people used as pawns in an increasingly dangerous geopolitical game.

Thank you for your attention to this critical matter. I look forward to working with the Committee to bring about meaningful change.