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# GAGGING THE LAWYERS: CHINA'S CRACKDOWN ON HUMAN RIGHTS LAWYERS AND IMPLICATIONS FOR U.S.-CHINA RELATIONS

## HEARING

BEFORE THE

## CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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# GAGGING THE LAWYERS: CHINA'S CRACKDOWN ON HUMAN RIGHTS LAWYERS AND IMPLICATIONS FOR U.S.-CHINA RELATIONS

**WEDNESDAY, JUNE 28, 2017**

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
*Washington, DC.*

The hearing was convened, pursuant to notice, at 2:24 p.m., in room HVC–210, Capitol Visitor Center, Hon. Christopher Smith, Cochairman, presiding.

Also Present: Chairman Rubio and Senator Young.

## OPENING STATEMENT OF HON. CHRISTOPHER SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; COCHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

Representative SMITH. Good afternoon. The hearing will come to order. And I want to thank each and every one of you for being here today. Sorry for the delay, both houses are in very active mode.

We just had a series of votes. And I know Chairman Rubio is very much engaged on the healthcare issue, but he will be here very shortly.

Chinese officials repeatedly tell me that I should focus more on the positive aspects of China and not dwell so much on the negative. I have heard it from diplomats, I have heard it from people when I have traveled in China Beijing as well as in Shanghai.

That is an extremely difficult task when you read the horrifying and sadistic accounts of torture and enforced disappearances experienced by lawyers and rights advocates. It is hard to be positive when you contemplate Liu Xiaobo's cancer diagnosis and the fact that China effectively silenced its most brilliant democracy advocate.

Earlier today, I am happy to say, again, another voice from the administration at a hearing before the House Committee on Foreign Affairs, in answer to a question that I posed, Nikki Haley clearly and unmistakably said he should be free to go wherever he wants to go and that would include he and his wife coming to the United States to get the very necessary medical treatment that he has been denied.

The empty chair at Oslo, and I was there, speaks volumes about the Communist Party's abiding fear that freedom will upend the power of the privileged few when they should be seeing liberty as a path to a greater peace and prosperity.

At a hearing last month in the Subcommittee on Global Human Rights in the House Foreign Affairs Committee, I and my fellow colleagues heard testimony from the wives of five detained or disappeared human rights lawyers. The courageous women have become effective advocates for their husbands and for all those detained in the 709 crackdown.

They described in horrifying detail the physical, mental, and psychological torture experienced by their husbands, including marathon interrogation sessions, sleep deprivation, beatings, crippling leg tortures and prolong submersion in water.

Many of their husbands were also forced to take alarming quantities of drugs, including tranquilizers, barbiturates, antipsychotic drugs and other unknown substances daily.

What they described was shocking, offensive and morally inhumane but, frankly, not surprising. It is also possible that Chinese officials believe the international community will not hold them accountable.

After the hearing, I wrote the heads of the American Medical Association, the American Psychological Association, the World Health Organization, as well as Secretary of State Tillerson and Ambassador Nikki Haley.

I asked for a condemnation of the practice of torture and medical experimentation on prisoners of conscience.

I have also asked for investigations so that serious questions will be asked of the Chinese Government. We know that those questions have been asked in the past by many, including special rapporteurs for torture. I remember when Manfred Nowak made his trip to China, the report was scathing, and yet nothing has been done to ameliorate this horrific abuse.

Finally, I have asked for accountability. I have asked Secretary Tillerson to start investigations under the Global Magnitsky Act, a bill that I led on the House side last year, so that any Chinese Government officials complicit in torture should be never allowed to benefit from entry to the United States or access to our financial system.

The issues of torture and residential surveillance in a designated location, effectively enforced disappearances, will be priorities of mine and so many others, and the chairman, our good friend, Marco Rubio, as this Commission moves forward.

I believe these issues are diverse and multi-level coalitions could be built to raise issues with the Chinese Government.

I would also think we need to do more to prioritize the protection of human rights lawyers and their families.

At the hearing last month, I heard the phrase "the war on law" used to describe the systematic effort to eviscerate the network of human rights lawyers. That phrase struck me because, though the number of human rights lawyers in China is small, what they stand for was nothing less than the rule of law for everyone, particularly those persecuted or aggrieved by the Communist Party.

They stand for the right of everyone in China, religious believers, ethnic minorities, petitioners, women who have been forced to undergo forced abortions, labor activists, or victims of corrupt or of the barbaric population-control policies, to always have a fair hearing, due process and a justice that is not politicized.

We all remember the case of Chen Guangcheng who fought so hard for the women in Linyi who were being forced into abortions and forced sterilizations. And for that, he was brutalized, as well as his wife.

And, of course, the Communist Party see the idea of fair hearings, due process and justice as not politicized, as a dangerous idea. It means that they should be accountable to the people—imagine that—to hundreds of millions of people, in fact, seeking redress for persecution and party corruption.

Xi Jinping is feted in Davos for his commitments to openness and the rule of law, but it is rule of law for the few and the privileged and rule by law for the rest.

The failure to implement the rule of law to favor a type of lawlessness in the pursuit of keeping the Communist Party in power has serious and lasting implications for U.S.-China relations as well.

We must recognize, after the failure of two-and-a-half decades of the so-called engagement policies, that China's domestic repression drives its external aggression, its mercantilist trade policies and its unimaginable decisions to keep propping up a murderous North Korean regime.

I know the Chinese Government wants me and others to focus on positive things. I think one positive development here is that the spouses and families of rights advocates and lawyers have given Beijing a rightly deserved headache. They have refused, absolutely refused to be silent about their spouses' detentions or disappearances and have used the internet and media to get out their message.

This trend is something new, something different, something we need to honor and deeply respect because they are under great pressure to be silent through intimidation, harassment, threats and detention.

I want to say to our witness, Chongyu, that we appreciate your testimony here today and the fact that you are speaking out on behalf of your father. We know that this Commission is an advocate for you and your entire family. If you or your family face reprisals because of your testimony here today, the Congress will take it as a personal affront to the work of this body.

I know your petition has gathered 94,000 signatures. Please make sure that my name is 94,001.

The one thing that gives me hope is that the people of China long for liberty, justice and opportunity. We saw it in the hearts and minds of those who braved the tanks, including Tank Man, during Tiananmen Square, possibilities that turned into a terrible, terrible tragedy and slaughter. But it was the heart of the Chinese people that came through. They want freedom. They want democracy. They want respect for fundamental human rights.

The need for principled and consistent American leadership is now more important than ever as China's growing economic power and persistent diplomatic efforts have succeeded in dampening global criticism of its escalating repression and failures to adhere to universal standards.

The United States must be a beacon of liberty and a champion of individual rights and freedoms. The United States must also

continue to be a voice for those silenced, jailed or repressed in China.

We cannot and will not forget those in China who bravely are seeking liberty and justice and the inalienable rights that we all share here in the United States.

Like China's human rights lawyers, like Liu Xiaobo, those who bravely seek peaceful change in China, that is our focus, that is our priority and that is our hopes and prayers are for them.

I would like to now turn it over to the distinguished chairman, Senator Rubio.

**OPENING STATEMENT OF HON. MARCO RUBIO, A U.S. SENATOR FROM FLORIDA; CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA**

Chairman RUBIO. Well, thank you very much. Thank you for filling in. As you know, the Senate is involved in one big issue, the healthcare issue, and it delayed us here a little bit while we were involved in a conversation. So I thank you for starting it and for taking over and all of you for being here this afternoon.

This hearing is entitled "Gagging the Lawyers: China's Crackdown on Human Rights Lawyers and Its Implications for U.S.-China Relations."

We will only have one panel testify today. It is going to feature Terence Halliday who is the co-director of the Center on Law and Globalization at the American Bar Foundation and also the co-author of the book Criminal Defense in China: The Politics of Lawyer at Work; Teng Biao, a Chinese human rights lawyer, a visiting scholar at the Institute for Advanced Studies and co-founded of the Open Constitution Initiative and China Human Rights Accountability Center; Xia Chongyu, son of imprisoned human rights lawyer Xia Lin and a student at Liberty University; and Xiaorong Li who is an independent scholar formerly with the Institute for Philosophy and Public Policy at the University of Maryland.

We thank you all for being here.

Before we move to the topic at hand, I want to take a moment to acknowledge the news this week regarding the reported transfer of 2010 Nobel Peace Prize Laureate Liu Xiaobo from prison to a hospital for treatment for late-stage liver cancer. This should not be confused with an act of mercy on the part of the Chinese Government.

His eight years of imprisonment due to his eloquent appeals for nonviolent political reform and protection of human rights remains a travesty of justice and a stain on China's human rights record.

Dr. Liu's medical parole is not the equivalent of an early release from his prison sentence or that he has the freedom to meet with his wife, Liu Xia, and other family members and friends.

I have urged the President to seek a humanitarian transfer of Dr. Liu and his wife to the United States to explore what medical options may be available.

I would also like to briefly read a quote from an editorial that ran in the Communist Party-controlled Global Times. The writer gloated, "China has not collapsed as the West forecast in the 1980s and 1990s, but has created a global economic miracle. A group of pro-democracy activists and dissidents lost a bet and ruined their

lives. Although Liu was awarded the Nobel Peace Prize, he is likely to face tragedy in the end."

What a grotesque expression in this Communist Party-controlled publication.

Any notion that Dr. Liu will receive adequate medical care under the supervision of his captors is simply absurd. I was pleased to read this morning that the newly arrived U.S. Ambassador Terry Branstad has urged the Chinese Government to allow Dr. Liu to seek treatment overseas.

As the Nobel Committee noted, Dr. Liu exemplifies the long and nonviolent struggle for human rights in China. That same spirit animates the work of the Chinese rights lawyers you will hear about today.

July 9th, 2017 marks the two-year anniversary of the start of what has been described as an unprecedented nationwide crackdown on human rights lawyers and legal advocates in China, an event that has come to be known as the 709 crackdown.

While perhaps unprecedented in scale and coordination, nearly 300 rights advocates were detained, summoned for questioning or disappeared, the crackdown began much earlier.

Xi Jinping's rule has been marked by extensive campaigns to silence political dissent, curtail civil society and ensure ideological loyalty to and conformity with the Chinese Communist Party. No sector of society is untouched. Business leaders, bloggers, social media users, university professors, journalists, religious adherents have all been targeted, but China's rights defenders and lawyers have been the tip of the spear for even longer, as our second witness, Dr. Teng Biao, can no doubt attest.

This small, but tenacious group is closely linked to the growth in legal rights consciousness among ordinary Chinese citizens. China's rights defense movement converged around the incidents of injustice that resulted from the single-minded drive of the Chinese Government and the Communist Party for rapid economic growth without political reform.

The victims of injustice included farmers who lost land from government expropriation, urban residents forcibly evicted without fair compensation, migrant workers trying to recoup unpaid wages, teachers, laid-off workers and army veterans who lost their pensions, and parents whose children were made ill from ingesting contaminated milk powder. The movement has expanded to support free speech, the pro-democracy aspirations of Hong Kongers, ethnic minority rights and other issues.

Our first witness, Dr. Halliday, has conducted literally hundreds of interviews with these men and women, a group bound together by their shared conviction regarding the importance of protecting basic legal freedoms a system where rule of law remains aspirational at best.

Among the lawyers featured in his latest book are those whose names and stories have captured headlines for the last two years. Their unjust and unexpected detentions nearly two years ago was, for many, the start of a long and harrowing ordeal marked by months in isolation, torture, coerced confessions and other forms of mistreatment.

Some of these lawyers, like Jiang Tianyong, whose wife I had the privilege of meeting earlier this year, remain in detention. Others, like Li Heping, are no longer in captivity, but the brutality they experienced left them visibly, physically altered. Many have been disbarred and will never practice law in China again. And still others live under constant surveillance and harassment.

It is tempting in the face of China's worsening and increasingly brazen human rights violations to grow disheartened, which is why I think it is equally important to spend some time today examining another part of this crackdown that is unprecedented, and that is the response of some of the family members of those detained. By their own telling, many of the wives of these rights lawyers had not previously been involved in their husbands' efforts to pursue justice and accountability from their government, but as the present system conspired against them and their families, they became advocates in their own right.

In case after case, these women took up the mantle of advocacy on behalf of their husbands. Their personal accounts of intimidation and harassment, of landlords refusing them housing, of children denied entry into local schools, of movement restricted and lives lived under constant surveillance, coupled with their compelling public defense of their husbands' innocence has, in the words of Dr. Halliday, opened up a, quote, "new line of struggle that we have not seen before in China," end quote.

Similar courage and boldness is on display today with the testimony of Xia Chongyu about his father's plight. Even for those of us who hold steadfastly to the view that the United States foreign policy must be infused with the principled defense of human rights and the promotion of basic freedoms, there remains a notion that change in China will ultimately come from within. And I agree.

And China's rights defense lawyers are at the vanguard in pressing for systematic change and seeking accountability and redress and working toward a day when China is a nation where the law is used to protect rights, not to suppress them. It is our duty to stand with them in this monumental task.

And it is our honor to welcome all of you here today.

And we will begin with the testimony of Mr. Halliday.

Thank you for being here.

## STATEMENT OF TERENCE HALLIDAY, CO-DIRECTOR, CENTER ON LAW AND GLOBALIZATION, AMERICAN BAR FOUNDATION AND COAUTHOR, CRIMINAL DEFENSE IN CHINA: THE POLITICS OF LAWYERS AT WORK

Mr. HALLIDAY. Mr. Chairman, Mr. Cochairman and distinguished members of the Commission, I am privileged to be invited here to participate in this hearing.

I have a longstanding admiration for the work of the Commission.

In my opening remarks, I address the meaning and the significance of China's unprecedented crackdown on lawyers almost two years after its onset in early 2015. My comments are derived from the empirical research of my research team into criminal procedure law and criminal defense lawyers over the past 12 years.

Our findings, published in our book Criminal Defense in China, conclude that China's legal system and China's legal profession have come an enormous distance since the enactment of the 1979 Criminal Procedure Law.

Nevertheless, on a number of issues integral to the defense of basic legal freedoms, China has turned away from reform both in its law and in its treatment of a key segment of the legal profession.

A sudden turning point occurred on July 9, 2015, when China launched a nationwide crackdown on activist lawyers. The 709 crackdown, as it has been colloquially labeled, has been unprecedented in scale and severity.

Within days, hundreds of lawyers across China were detained, disappeared and interrogated. Lawyers have been intimidated, tortured, charged with serious crimes and sanctioned severely.

Why did this crackdown occur? Research on activist lawyers reveals deep grievances held by hundreds of millions of Chinese who suffer from health-threatening pollution, from takings of their homes and land, from widening inequality, from religious controls and persecution, from discriminatory treatment of minorities, from inadequate protection of workers and women, and from exploitation and vulnerability of migrant laborers, among others.

The sheer quantity of disaffected and angry populations can fuel widespread social unrest. Lawyers often become the help of last resort when every other channel has failed. Therefore, over the past several years the Chinese Communist Party has faced a double threat to its survival. On the one hand, economic and social problems appear to be multiplying and intensifying. On the other hand, lawyers increasingly have been articulating and expressing those grievances through law in highly visible ways.

What triggered the crackdown on lawyers on July 9, 2015? Over the last several years, activist lawyers significantly increased in numbers. Hundreds of new activists, many of them young and well-educated, signaled their willingness to join the front line.

Lawyers magnified their ability to mobilize.

Since 2011, lawyers increasingly came together in large defense teams in difficult trials. Through social media, activist lawyers could create instant crowds to rush to a courthouse or defend a lawyer being harassed by police. Nationwide, online networks could mobilize hundreds of lawyers for new cases or emergency situations.

The power of social media multiplied the impact of a new type of lawyer. So-called diehard lawyers actively used the social media and street theater to activate supporters and expose problems in defending their clients.

Some lawyers had accumulated thousands or even millions of followers on Weibo, China's equivalent to Twitter. Clearly, China's leaders felt vulnerable to activist, diehard and ordinary lawyers' enhanced powers to mobilize publics.

What motivates these lawyers to exhibit such courage in the face of a regime that does not hesitate to use inhumane and even life-threatening measures against its opponents?

Our research reveals that courage for many lawyers arises from their own life experiences, such as harms to parents during the

Cultural Revolution, participation in the 1989 Tiananmen movement, or shocking experiences in their legal practices.

Many lawyers build their courageous representation upon legal ideals that underwrite the good political society.

First, they insist on the protection of basic legal freedoms, such as the right to be represented by a lawyer, due process in trials and fair adjudication. They insist upon freedoms of speech, of association and religion.

Second, they are committed to a vibrant civil society as it is expressed through voluntary associations and an open public sphere.

Third, these activist lawyers strongly oppose arbitrary executive power, and they call for checks and balances within the state.

Our research documents that many lawyers, notable and ordinary practitioners, also draw their courage from their Christian faith. Christian lawyers insist upon the value of equality. Most importantly, that in the eyes of God and in the eyes of the law, said one lawyer, "Chairman Mao is as equal as me."

They champion the Judeo-Christian emphasis on a political and legal order that delivers justice, often quoting, like Martin Luther King, the Biblical prophets Amos and Micah.

They believe in fairness, that justice should be available reliably and fairly to all, whether they are Han Chinese or Tibetan, Party members or Falun Gong members.

Finally, they hold China's law accountable to God's law. I consider it probable that Party leaders fear Christian lawyer leaders who have strong relationships with Protestant churches across China, China's largest civil society group, and some who have significant international connections.

What does the lawyer crackdown tell the world and us about China's future? Viewing China through the lens of courageous lawyers reveals that legal change in China has turned toward repression, a repression which has taken deeply sobering turns since 2015.

Nevertheless, deep impetuses for change remain within China. Repressive actions themselves may be self-subversive. Notable activists refuse to surrender easily or to go quietly. Their wives, their comrades spring to their defense. Significant numbers of grassroots lawyers continue to harbor visions of alternative legal political futures. The international community ratchets up its efforts at solidarity, pressure, and support for lawyers. Where goes China may depend very considerably on where go its lawyers. Will it follow long, peaceful paths of reform and the expansion of basic legal freedoms that are offered by these activist lawyers? Or will China lurch toward a violent, explosive path that could lead to fearful, unpredictable outcomes?

For the United States to respond vigorously to China's repression against lawyers and its deviance with respect to global norms, may I offer the following recommendations.

(1) The United States Government and the international community of states, international organizations, and publics should stand in solidarity with China's activist lawyers and hold China's practices strictly accountable to global standards, most importantly those inscribed in U.N. conventions, principles, and institutions.

These are applicable to all persons, places, and states without exception.

(2) The United States Government should maintain its leadership position in the United Nations Human Rights Council and other authoritative international bodies so that China does not erode or dilute universal norms of law, lawyers, and rights.

(3) The United States Government should use all means at its dispoal, including joint statements with other states, bilateral dialogues, and monitoring by U.S. agencies to press China to adhere to global standards in its treatment of all its lawyers, most especially those swept up in the crackdown.

(4) The current administration should strengthen the capacity of the U.S. Department of State and other executive agencies to monitor treatment of vulnerable populations in China and particularly lawyers who represent those populations.

(5) U.S. Government agencies, including the CECC, should mobilize U.S. firms businesses operating in China to recognize the dangers their employees and partners face as China offers less and less protections to persons inside China who cross invisible lines being drawn and redrawn by China's security apparatus.

(6) The United States should lead other states in the call for release of activists being punished for their rights defense work, and reject the criminalization of their legitimate exercise of rights protected by Chinese and international law.

Chairman RUBIO. Thank you.

We will recognize our second witness, Teng Biao.

**STATEMENT OF TENG BIAO, CHINESE HUMAN RIGHTS LAWYER, VISITING SCHOLAR, INSTITUTE FOR ADVANCED STUDY, AND CO-FOUNDER, THE OPEN CONSTITUTION INITIATIVE AND CHINA HUMAN RIGHTS ACCOUNTABILITY CENTER**

Mr. BIAO. Mr. Chairman, distinguished members of CECC, I am honored to be invited to testify at this especially important hearing.

This coming July 9th, the second anniversary of the 709 crackdown, there will be events in DC., Hong Kong, Taiwan and some European cities to mark the inaugural China Human Rights Lawyers' Day, which I have been organizing for months.

Chinese human rights lawyers have since 2003 become one of the most active and effective forces in China defending rights and freedom and, inevitably, have been the target of the government's persecution since the beginning of the rights defense movement.

Because of my work of promoting human rights and democracy since 2003, I was disbarred, banned from teaching and eventually fired, banned from travelling, and kidnapped for three times by the secret police.

In 2011, I was detained in a black jail for 70 days in an extreme form of solitary confinement, physically and mentally tortured. My wife and daughter were banned from travelling abroad, and my wife fired by the company she worked for due to the pressure from Chinese Government.

Collective punishment is frequently used by Chinese authorities to maximize intimidation. The purpose of torture and collective punishment was to make me stop my human rights work, but I did not.

The persecution of rights lawyers reached its peak in 709 crackdown. Eight lawyers are still in prison, including Jiang Tianyong and—Wu Gan. Wang Quanzhang has disappeared since July 2015. His family and lawyers do not even know whether he is alive or dead.

Dozens of lawyers were severely tortured, including beatings, electric shocks, sleep deprivation, death threats, months or years of solitary confinement, so on and so on.

Notably, it has been confirmed that many lawyers and activists were force-fed with medicines which caused them muscle pain, blurred vision and other physical and mental harm.

The prison conditions and the treatment in detentions are extremely inhuman and cruel in China. As we know, deliberate neglect aggravated Liu Xiaobo's cancer.

Now, both Liu Xiaobo and Liu Xia clearly expressed that they want to go out of China.

The rights defense movement has emerged since early 2000 as a new focus of the Chinese democracy movement, up to the Xidan democracy wall movement in late 1970s and the Tiananmen democratic moment in 1989.

Let us take a brief look at the history of the Chinese Communist Party. When the Communist Party was facing a deep legal and economical crisis in the late 1970s after waves of political campaigns and the brutal Cultural Revolution, they had to introduce a process of legalization and marketization.

Legalization was necessary for establishing social order and market economy, and thus was beneficial to the political system when mass mobilization was not applicable anymore.

Millions of laws and regulations were made, legal professions were recovered, by the CCP never meant to accept a democratic transition or rule of law. Opposition of politics is prohibited, but we lawyers and rights advocates tried our best to use existing legal channels to defend human rights and freedom.

Starting with a narrow space, the rights defense movement attracted more and more supporters, such as lawyers, bloggers, persecuted religious groups, victims of human rights abuse, and political dissidents. There are incredible achievements under such a repressive regime.

For the past 14 years, the development of the rights defense movement was expressed through at least four trends, namely, organization, street activism, politicization and internationalization.

There is a clear limitation to China's legalization, that is one-party rule, the number-one priority of the CCP. Once the CCP senses the use of law could be a potential challenge, it never hesitates to nip it in the bud.

When Xi Jinping took his office, what the CCP was facing was increasing crisis, political, economical, social and ideological crisis. The calculation of Xi Jinping is that without a war on law to destroy the resisting ability of the social and political movement, a color revolution will occur, and thus, the monopoly of power of the Communist Party will be in danger. This is the political background of 709 crackdown.

Once again, the CCP's war on law makes it urgent and necessary to change U.S. human rights policy toward China.

In 1989, all democracies condemned the Tiananmen massacre, sanctioned Chinese dictators and supported Tiananmen activists in jail or in exile. Yet very soon, Western leaders could not wait to welcome Chinese butchers and dictators, rolling out their red carpet replete with eager hugs and state banquets.

In 1994, U.S. Government granted permanent most-favored-nation status to China to delink human rights to trade, despite protests from human rights groups. Then China was allowed to enter the WTO and international market.

China was given the opportunity to host Olympics, World Expo, APEC and the G20. China was voted in as a member of United Nations Human Rights Council again and again.

Now China has become the second-largest economy and is playing an active and aggressive role on the international stage.

Cyberattacks, South China Sea aggression, abducting overseas booksellers and activists, Confucius Institutes which erode academic freedom, the list goes on.

China is demanding a rewrite of international norms, wanting to create a new international order in which rule of law is manipulated, human dignity is debased, democracy is abused, and justice is denied. In this international order, corruption and persecution are ignored, perpetrators are immune and dictatorial regimes are united and smugly complacent.

I would like to point out that U.S. human rights policy toward China has long been based on a series of erroneous theories and mistaken presumptions regarding Chinese politics and their society.

I do not have time to go into details, but the erroneous theories cover misunderstandings of China's market, constitution, international accountability, NGOs, so on and so on.

Finally, I would like to offer a few recommendations here.

Link human rights to trade and other important issues that the CCP cares about.

Implement the Global Magnitsky Act to ban Chinese perpetrators and corrupt officials from entering the United States.

Punish U.S. and Western businesses which cooperate with Chinese authorities and participate in human rights abuses.

End the 110 Confucius Institutes in the United States educational institutions.

Do not fund the oppressor.

Support the real NGOs, not GONGOs.

Name and shame.

Expel China from the Human Rights Council of the United Nations.

A powerful and autocratic China will bring calamities to mankind. Supporting democracy and human rights in China not only corresponds to American-declared values, it will also benefit American politics, society and economics in the long term.

Please stand on the side of Chinese people, not on the side of Chinese Communist Party. China should be represented by the human rights lawyers, activists, dissidents and all Chinese people fighting for freedom and democracy, not the illegitimate party and the government.

Thank you.

Chairman RUBIO. Thank you so much for your testimony.

Our third witness is Xia Chongyu. He is the son of a prominent imprisoned human rights lawyer, Xia Lin. He is currently a college student at Liberty University, but his mother still lives in China.

And it is in our view, let me just say this, it is incredibly important that we make clear that his appearance here today should not in any way lead to any pressure on him or harm on him or his family. If such an event exists and happens, we will view it as a direct attack by Chinese Government and Communist Party officials as a result of your testimony here today.

And it is something I want to make abundantly clear, that it is something we will be watching and strongly condemning and pointing to and knowing that it is directly related to your appearance here today. So it is our hope that that is not the case.

But we thank you for being here.

**STATEMENT OF XIA CHONGYU, SON OF IMPRISONED HUMAN RIGHTS LAWYER XIA LIN AND A STUDENT AT LIBERTY UNIVERSITY**

Mr. XIA. Dear Congressmen and Congressmen, respectful audience, I am Xia Chongyu, son of Chinese human rights lawyer Xia Lin.

It is such a great honor to be here to share about my father's situation and what my family has been through these past years.

My father dedicates himself to be the voice for the voiceless and provides pro bono legal assistance to the victims of human rights violation cases.

On November 8th, 2014 my father was abducted by secret agents without a warrant. The government did not inform my mother of my father's arrest until five days after the fact and denied my father's basic rights to meet with his defense attorney for three or four months.

Meanwhile, the police kept asking my father about the politically sensitive cases he represented. My father was physically and mentally tortured by the police, who used interrogation techniques such as shining a strong light on his eyes to keep him awake for days. They tried to break him so that he would confess to fraud, but all their attempts failed.

After 600 days of imprisonment, he was unfairly tried in a closed-door hearing. My father was denied a personal statement in court and none of the witnesses had a chance to testify.

The Second Court of Beijing sentenced my father to 12 years in prison for fraud, without appropriate evidence. My father's final sentence was delivered without a fair second trial in February 2014. No one ever accused my father in person.

I refuse to accept this illegal and unjust verdict. In April, I presented my petition at a convocation of Liberty University and the responses were overwhelming. However, when I tried to deliver my petition with over 14,000 signatures to the Chinese embassy, no one would even see me. Before I left, I read my petition aloud at the gate of the embassy.

At this moment, I have collected over 94,000 signatures. Most of them come from Americans and the rest are from other countries around the world. I am not alone.

As a rising nation, China's deteriorating human rights record is unacceptable. When a human rights lawyer cannot secure his own fundamental rights, I believe every member's rights in the society are threatened.

Human rights lawyers are the cornerstone of society. I hope the U.S. Government can increase its involvement in such cases in the future. Moreover, I wish the Congress of America could urge the Chinese Government to stop controlling the judiciary system and stop the persecution against 709 lawyers.

Lastly, I plead that the White House summon the Chinese ambassador and ask the Chinese Government to respond to me and my 94,000 petition supporters.

Meanwhile, I recommend the White House or State Department issue a clear policy regretting this type of case. By making a clear stance, the U.S. Government would communicate to the world that human rights violations will not be tolerated.

I appreciate the Congress for organizing this hearing so that our voice could be heard by the world.

Thank you.

Chairman RUBIO. And we thank you for your testimony here today.

We are going to begin our questions and I am going to turn it first over—oh, I apologize. I am so sorry. I am so sorry. I apologize.

So our final testimony—I said "final" earlier and that is what threw me off. There is a seat missing, that is what threw me off, in between the both of you.

Xiaorong Li is an independent scholar, formerly with the Institute for Philosophy and Public Policy at the University of Maryland.

And thank you for being here. And we are ready for your testimony.

The microphone, if you could just push the button. Could you tell them to push the button for her, please? Thank you. There we go.

**STATEMENT OF XIAORONG LI, CO-EDITOR OF CHARTER 08, A COLLECTION OF ESSAYS BY CHARTER 08 SIGNERS AND SUPPORTERS, AUTHOR OF ETHICS, HUMAN RIGHTS AND CULTURE, FOUNDER OF SEVERAL HUMAN RIGHTS NGOS FOCUSING ON CHINA, AND OCCASIONAL CONTRIBUTOR TO PHILOSOPHY JOURNALS AND NEWSPAPERS**

Ms. LI. Thank you, CECC Commissioners and staff. I am asked to share a few thoughts about how Congress and the U.S. Government should respond to the July 9 crackdown on lawyers and the overall worsening human rights situation in China, which, under President Xi Jinping, has taken a nose-down dive.

Two days ago, many of us woke up with the heart wrenching news that Liu Xiaobo, the Nobel Peace Prize laureate, was diagnosed with terminal liver cancer, was granted "medical parole" and relocated from prison to a hospital. Except a brief video call, his wife Liu Xia has not been able to talk freely. It is now clear that Liu Xiaobo and his family are not free to choose doctors nor are they free to travel abroad for possibly life-saving treatment.

Liu Xiaobo is due to be released in 2 years after serving 9 out of an 11-year imprisonment for his role in Charter 08. He has prac-

tically been in secret imprisonment. His wife has been put under house arrest since 2010. The outside world knows almost nothing about what happened to him inside the prison walls. Secrecy created the perfect conditions for abuse—torture, mistreatment, including medical neglect and deprivation of adequate care.

Secret detention, persecution of family members by association, mistreatment in prison including deprivation of medical treatment are routinely used by the Chinese Government to punish human rights lawyers, activists, political or religious dissidents, especially in ethnic minority regions Tibet and Xinjiang.

Activist Cao Shunli died from denied medical treatment in detention on March 14, 2014 after she was hospitalized in critical condition, while authorities had previously rejected her lawyers' multiple requests for "medical bail." Five days after Cao Shunli's death, the Tibetan political prisoner Goshul Lobsang died due to torture and lack of medical treatment in detention. One human rights organization has kept a Medical Watch List tracking cases of currently detained or imprisoned individuals who suffer from deteriorating health and have been deprived of adequate medical treatment and denied release on medical grounds.

How should the United States Congress respond to the Chinese Government's human rights problems? Four suggestions:

1. One stance that Congress can take is also most obvious one, but often seeming the most difficult one, which I have previously discussed in this forum. It is simply to be consistent and steadfast. Let me explain: The CECC and the State Department both produce carefully-researched annual human rights reports based on excellent data and expertise analysis. But these reports bear little relevance to U.S. polices toward China, where human rights tend to be overpowered by trade business or regional strategic interests. Data and facts in these congressional and government reports about China's worsening human rights problems often do not have a voice in such polices. I know this may sound naive and simplistic. But being consistent and sticking to one set of human rights standards in Congressional resolutions, whether it concerns Cuba or Iran or North Korea or China, is what gives U.S. human rights polices a measure of credibility.

2. My second thought is that Congress should continue to support programs or organizations that assist victims of rights abuses. For instance, right now, Congress should press the Administration to issue a standing invitation to Liu Xiaobo and his family immediately and make contingency plans to make sure that he receive the best treatment and care this country can offer, if the Chinese Government let them go. The EU funds "emergency relocation and shelter programs" that evacuate and assist human rights defenders at high risk. Congress must guard our political refugee programs against xenophobia.

3. Congress must urge the Administration to comply with the Global Magnitsky Accountability Act to seek accountability for rights abuses. Congress passed this Act and it was signed into law last year. It is a brave new tool that the U.S. Government must use to hold perpetrators and corrupt officials in the Chinese Government accountable. For years, critics of economic sanctions argued that they'd hurt the average Chinese and many of us have re-

alized that U.S.-China human rights dialogues have produced no real impact. Now, this new law can be used to target abusive officials, with no quota restriction on how many from which countries could be designated, as long as credible evidence against them can be presented. But the decision is with the Administration, where such decisions might very well be subjected to the whims of other priorities. Congress should make sure that the President's other interest in China do not get in the way of holding Chinese officials accountable for human rights abuses.

4. One other suggestion is that Congress should support U.S. actions holding the Chinese Government accountable for its failures to live up to its international human rights obligations. China is a member of the Human Rights Council. It has signed or ratified 7 of the 10 major human rights treaties, such as the Convention against Torture, which China ratified 29 years ago. Yet the Chinese Government continues to derail rule of law reforms, undercut any independence of the judiciary, and disregard legal safeguards for detainees from torture.

As China becomes a raising world power, the government's systematic human rights abuses raise serious questions about its credibility or fitness to take global leadership in areas where the United States is retreating. The Chinese Government has a clear track-record of signing up for international human rights treaties while violating them outright back home and in countries where it's investing, lending money, and building infrastructures. It's important to lay bare this track record of deceit and hypocrisy. A government that can't honor its own commitments, can't keep its own promises, has no credibility. Congress should urge the Administration to actively engage other member states at the United Nations to keep out governments with worsening human rights conditions from the Human Rights Council. Dig in, do not retreat from that multilateral battleground to fight abusive government and stand up for victims.

Chairman RUBIO. We thank all of you for being here today.

We will now begin to the questions, to all four of them, right? [Laughter].

All right. I am going to let—we are going to hear first on the question round from the Cochairman.

And we thank you for opening the hearing today.

Representative SMITH. Thank you for your leadership, Mr. Chairman, which has been extraordinary for many, many years.

Let me just—there was an excellent and incisive op-ed in The Washington Post on June 27th, co-wrote by Yang Jianli, who is here, who has testified before this Commission on several occasions, and Jared Genser.

And just very briefly reading from it, and you will see why I am raising it in a moment, they pointed out, "As China's power and influence have increased, Western democracies have collectively engaged on self-censorship on human rights, choosing to prioritize what they have clearly believed to be their more important interests over their purported values. In the past five years, since Xi became president, discussions of human rights have been relegated to fruitless dialogues with the Chinese foreign ministry, which has never had any power over domestic concern."

"President Barack Obama," they went on, "led the West in playing down concerns with China on human rights and was conspicuous by his unwillingness to help Liu, his fellow Nobel Peace Prize laureate. He raised Liu Xiaobo's case publicly only once after he was awarded the Nobel Peace Prize. And whatever he might have said privately clearly had no impact. At the same time, he did not join the 134 Nobel laureates to a letter to Xi Jinping and did not publicly condemn Liu Xia's detention under house arrest, and even threatened to veto a bill passed by the Senate to rename the street in front of the Chinese embassy Liu Xiaobo Plaza."

Finally, "Chinese security officials even exploited the United States' repeated refusal to help the Lius in torture sessions with detained Chinese dissidents. They explained to their victims that they surely must have observed that Washington had refused to help the world's only imprisoned Nobel Peace Prize laureate and his wife—so what hope could they expect when they disappeared, tortured or imprisoned? The American refusal of support to Liu Xiaobo gave Xi Jinping license to act with total impunity to repress domestic dissent."

In 1994 on one of many trips to the People's Republic of China, I met with Wei Jingsheng for dinner. He had just been let out of prison in an attempt by the Chinese Government, one high-value political prisoner, to get Olympics 2000. They did not, he got rearrested and was brutalized, finally came here on humanitarian parole, near death.

He told me something I will never forget. When you are weak and vacillating and kowtowing to this dictatorship, they beat us more in the prison camps, in the laogai. When you are tough, predictable, with professionalism, they beat us less.

We have seen eight years of retreat by the Obama administration. As the chairman knows, he and I have co-chaired hearings over these years pleading with the Obama administration to take a tougher stance.

I believe and hope the long overdue sea change in support for human rights in China may be changing. The President, of the United States Donald Trump, has already denied funding to the United Nations Population Fund, because of their horrific complicity in the coercive population control program, a program that began in 1979. There are now 62 million missing girls. That is the disparity; there are far more that have been killed simply because they are girls.

And yesterday, Secretary Tillerson named China as a tier-three country, egregious violator of human trafficking.

We had hearing after hearing asking the previous secretaries of state and the Obama administration to name China tier three and sanction them and they would not do it. There was one automatic downgrade that was required by the law, but they would not do it because of the facts.

We think, I think that we may be seeing a change of heart by the U.S. Government, which bodes well for the human rights lawyers, the political prisoners, the religious prisoners. And that is our hope.

Two things already: The President's administration, I said before, Nikki Haley has said, yes, we do want him to be allowed to

leave along with his wife, Liu Xiaobo, and hopefully that will be the case.

So, I do have just one question, and if there is time permitting I have many more to follow after the distinguished chairman.

But, Dr. Teng, you are one of the founders of the Human Rights Accountability Center which is aiming at using the Global Magnitsky Act to bring sanctions against China's human rights violators. What has been your experience so far with the new administration?

It is a new law, obviously. But is there an openness to singling out and holding individuals to account for torture and other gross violations of human rights?

Mr. TENG. Thank you very much. After the Global Magnitsky Act enacted, we have founded the China Human Rights Accountability Center this January. And we tried our best to collect the information, the evidence of the human rights abusers and corrupt officials, including the current minister of public security.

And we have provided materials to the State Department. And we have established a website.

So first is, it is difficult to collect some information and sometimes it is hard to meet the requirement of the American government.

And second, we understand that the President of the United States has discretion power to use this Magnitsky Act more or less. So, I do hope the American Congress, the CECC, can send a clear message now to give pressure to the White House and the President. Now it is very, very important to implement the Global Magnitsky Act, especially regarding Chinese corrupt officials and perpetrators because the United States should not be a safe haven to Chinese perpetrators and corrupt officials. Thank you.

Chairman RUBIO. This is a general question for the whole panel. If you speak to people involved in setting policy in the new administration, their argument is they do want to raise human rights issues, but they believe they are best raised one-on-one in private meetings in an effort to allow the Chinese Communist Party officials to save face, in essence to not be embarrassed publicly, that they respond better to a private, one-on-one settings as opposed to public denunciations of the kind that we are conducting here today.

The flipside of it is, I know that one of the arguments oppressors make, not just in China, but all over the world to the oppressed is nobody cares about you, everyone has forgotten about you, you might as well give up because you are just not important enough, and the United States is not going to harm their relations with us because of your case.

What is your view on, number one, the idea that somehow human rights are best raised with the Chinese officials privately versus the sort of more open, you know, more open highlighting of these cases for the world to see?

And second, is what we do here, irrespective of the administration, is what we do here, whether it is on this Commission, on the Senate floor, on the House floor, in our letters and our resolutions, does it matter, does it make a difference?

I certainly know they read it in the Chinese Government because I know they get upset about it, but what about the activists? What

impact does it have? Because it is important for our colleagues sometimes to understand the impact that what we do here is not simply symbolic. And if it is, I want to know that, too, obviously.

So two separate questions: Is there the view of the private versus public? And second, what about our role here in Congress and when we have meetings on this Commission or make statements or do resolutions, does that have an impact, does that matter?

And if you want to go first, Mr. Halliday.

Mr. HALLIDAY. I cannot say what kind of efficacy there is in private interventions, but China's government seems much to prefer these.

However, in my empirical research and the work of our team, speaking to many activist lawyers over many years, there is absolutely no doubt in their minds that China must be spoken to publicly and China must be publicly shamed.

I have no doubt that when the world speaks out loud and publicly, China listens. China has a very thin skin.

When the American Bar Association awarded its international human rights prize to detained lawyer activist Wang Yu, within 48 hours, the Global Times had an editorial trying to rebut that recognition. That tells me that not only was China listening, but China felt it had to respond.

And finally, the point that you made, Mr. Chairman, is that in our interviews with notable activists, time and again they have said that when there is a public call for their release or public call for news about them, their treatment is improved. They can perceptibly point to the day, the week, or the month when their treatment changes as the international community turns the spotlight publicly on their plight.

Mr. TENG. Yes. I think both private and public pressure dialogues are useful. But I think, this kind of pressure should not be only lip service. It should be giving real pressure to the Chinese Government and there should be a follow up. So you should send a clear message to Chinese Government that this human rights issue or at least the political prisoners or one certain case, you know, really matters. And it should have a negative consequence if you do not respect your own constitution or the international human rights standard.

And when I was detained and tortured the United States is my important hope. So if the United States refuses to pay attention to Chinese freedom and human rights and the people in the prison, the people would be very hopeless.

Mr. XIA. I think that both private and publicly is needed. Because for the private part, I think for the individual cases, like Chen Guangcheng, the American government can talk to the Chinese Government personally to save those individuals in specific cases.

And for the public, sort of for the underprivileged people who are under threat. So, I think the private should work for the lawyers and human rights defenders who are already persecuted and the public ways working for the underprivileged people to protect them in the future.

And I think that the Congress is definitely working. It is not just our voice being heard. But for example, I went to the Chinese em-

bassy with my petition and my signatures, but as a Chinese legal citizen nobody would even see me. But I can talk through here, and the Congress has the power to talk with the White House, and the White House has the power to summon the Chinese ambassador to respond to my petition. So, I definitely think that Congress is doing some work.

Thank you very much.

Ms. T4Li. I think it is just a matter of accountability. Like, whatever is privately said, nobody knows who is going to hold people accountable, both the Chinese officials and the United States officials. We do not know what was promised, what was raised. And how can you hold anybody accountable if nothing happens afterwards?

And the other issue is the information in bans. In China, there is already so much secrecy, secret detentions, secret interrogations, disappearances, and now they just revised the government public information disclosure to make it practically no information would be disclosed. So we already do not know so many things and then we are going to advocate further secrecy in human rights discussions?

I think we are not on the playing field when we are talking about United States officials meeting with Chinese officials. So, I think abusers of human rights are mostly afraid of the sunshine, they are afraid of information, they are afraid of the people knowing what they did and afraid of being asked to change their behaviors.

Chairman RUBIO. In the past when we have interacted with rights activists and others in China, a number of them have told us that they have experienced some level of harassment, even when here in the United States, even on Capitol Hill actually by those working on behalf of the oppressors.

But more importantly, the sort of implied threat that they could reach them anywhere in the world, that if they had to reach out and affect their lives in some way, they could do it, that they really were not safe anywhere, these sort of threats.

I just wanted to ask because all of you have been so vocal and open on some of these issues. Have any of you, if you are comfortable sharing obviously, ever felt as if you have been the subject of that sort of implied or direct threat of intimidation, either here while present in the continental United States, even perhaps because of your appearance here today?

And if you are not comfortable saying, then obviously that is an answer, too.

Mr. XIA. I would like to share some of my experience. After my father was arrested, he was completely missing. We did not receive any word, so we do not know where they took them or who took them. That is one of the pressures we got.

And the police also summoned my mom to ask her to divorce my father. And I was on a certain list, my mom, that is the reason why my family sent me here to keep me safe.

But I think the first two years, I was threatened by the government and I kept silent.

Chairman RUBIO. I apologize. The first two years while you were still in China or while you were here?

Mr. XIA. Here, yes. My first two years here.

Chairman RUBIO. How were you threatened?

Mr. XIA. For example, the lawyer Wang Yu, his family members just taken away by the secret agents in the airport. And also, the police officers went to my family friends and other family members to threaten them. And me and my mom kind of got isolated. So, I am just worrying about everything and I was scared. I just kept silent here.

But I have learned what is right to do and what is justice, I would say, so the pressure turned to my power and I would have a chance to speak here.

Chairman RUBIO. So to be clear, while you were here already for the—how long have you been here now?

Mr. XIA. Two years.

Chairman RUBIO. In the two years that you have been here, there were times where you chose, at least initially, to be careful what you said or spoke out for fear of retribution against friends and/or loved ones in China?

Mr. XIA. Yes. So, yes, basically, they just went to my mom and I was scared. Yeah. Because when the police officer broke into my house, I was there, I saw everything. And honestly, my family did not share with me all the political stuff when I was a child. So, I was scared badly, yes.

Chairman RUBIO. Mr. Biao.

Mr. TENG. I have a lot of stories that my friends, including Chen Guangcheng and some activists in the United States, were intimidated by the Chinese Government when they were here, even including some activists were attacked physically when they were in a protest.

I myself, when I was——

Chairman RUBIO. Attacked physically here in the United States?

Mr. TENG. In California, yes, by some unidentified persons. And obviously, they were hired by the Chinese Government or Chinese embassy.

And when I was in Boston at Harvard Law School, my wife and one of my daughters were banned from going to the United States, so we were separated for nearly one year. Obviously, the purpose of their travel ban is to silence me.

And last winter, my wife was fired by the company she was working for because of the clear pressure from the Chinese Government. So they use all kinds of collective punishment to marginalize, to silence, to intimidate the human rights activists in the United States.

Chairman RUBIO. Okay. I know the Cochairman has further questions.

Representative SMITH. Thank you very much, Mr. Chairman.

Can I just ask you, Mr. Teng, you might want to speak to this, how the crackdown on lawyers, and maybe, Mr. Halliday, you as well, the crackdown on lawyers, how has it impacted on civil society? It seems when you go after lawyers, the impact has to be even more profound.

We know the NGO law, the religious freedom crackdown that has gotten even worse on Xi Jinping, tightening the screws, making it harder and harder.

And then when you are the last resort, and, Dr. Li, you might want to speak to this as well, does this just chill civil society?

Mr. TENG. Yes. Internally, there are altogether 300,000 lawyers, but only several hundred human rights lawyers. And during the 709 crackdown, almost all active and famous human rights lawyers were either arrested, disappeared, or interrogated. So for the whole civil society, it is harder than before to find a human rights lawyer to represent their cases, so the vulnerable groups, the Tibetans, Uyghurs, Falun Gong and other religious groups, the petitioners.

So they were also targeted, many of these other activists. And I know house churches were arrested and sentenced. And lawyers have more risk than before to take these sensitive cases.

So the chilling effect of the roundup of human rights lawyers is very strong. And many lawyers have to give up and have to keep silent. But on the other hand, some new lawyers can still stand up to join the human rights movement and some new activists are courageous enough to stand up, to speak out.

So what the government wants to achieve is some total silence, but I do not think the Communist Party can destroy the whole civil society, the whole movement completely.

Thank you.

Representative SMITH. Let me just—yes, Dr. Halliday?

Mr. HALLIDAY. May I add that civil society comprises a vast number of people in China. And following Dr. Teng Biao, the Communist Party's apparent belief that it is possible indefinitely to repress hundreds and hundreds of millions of people who want to be able to express their views or who want legal representation, seems highly questionable.

If you imagine the Christians alone, 80 million to 100 million Christians, China's largest civil society group, can you entirely cut them off from any kind of connection or leadership with these notable activist lawyers or grassroots lawyers more broadly.

But it does seem clear to me that the intent of the Party is to take lawyers who were previously able to represent people in the kinds of grievances that Dr. Teng Biao has just mentioned and suddenly change the minds of the Chinese people about the role that these lawyers play.

As one eminent China specialist has said, in the past, lawyers were seen as representatives of people who were vulnerable and had grievances. Now, with charges of subversion against lawyers China's leaders are saying that lawyers are enemies of the state, lawyers are enemies of the Party, lawyers are enemies of China.

So there seems a very deliberate effort simultaneously to crush civil society, which I cannot believe can continue indefinitely, and at the same time to disconnect civil society from the kind of leadership offered by activist lawyers.

Representative SMITH. Yes, Dr. Li.

Ms. LI. In fact, the crackdown on lawyers is shorthand because a lot of them are not lawyers. For example, Teng Biao mentioned Wu Gan who is still in detention facing trial. And several of them have already been sentenced, like Hu Shigen and—as I said, yes, these people are also—crackdown on lawyers.

And the second point I think you brought up is the overseas NGO law. You know, we have a lot of international NGOs pro-

testing. But in fact, the law most directly impacts domestic Chinese NGOs because several leaders of those NGOs have been detained, they have been interrogated and incriminated for taking foreign funding or working with foreign organizations.

We should particularly mention Wang—and those are local human rights NGO directors.

And the third point I want to say is, China has systematically been revising or putting out new laws, like the national security law, the international security law, the anti-terror act, and one by one further restricting space for civil society and using state security to persecute people in not only physical space for organizing, for freedom of association, but the online space for speech and information.

So what we are looking at, it is not only the unusual quiet of civil society, but also the infrastructure changed to further repress any development of civil society.

Representative SMITH. I just have one more question and one comment, if I could.

If there are any lobbyists or lawyers representing the Chinese embassy here today, you do not have to stand up, but it would be nice if you would. But I would ask you, and I mean this with respect, would you be willing to take the petitions with some 90,000 signatures back to the Chinese embassy?

Come and see me or one of the witnesses or Chairman Rubio before the hearing is over. But it would be nice if you would consider doing that.

I, too, have gone to the Chinese embassy to deliver petitions. And we stood outside and never even got in through the door. It was appalling, lack of diplomatic civility.

My final question would be to Dr. Li or anyone who would like to speak to it. Back in the 1980s, I traveled, I have been here since 1981, with Armando Valladares who Ronald Reagan so wisely picked to be our head of delegation, made an ambassador. He had spent, as Marco Rubio knows, who has been absolutely tenacious in fighting against human rights abuse all over the world, but including Cuba.

Armando Valladares wrote a book ″Against All Hope″ which revealed the absolute and horrific use of torture and all kinds of repression by the Castro brothers and the entire regime.

And my takeaway from that trip, besides pushing for human rights in Cuba, was the hypocrisy of the United Nations Human Rights Commission. That was replaced by the Human Rights Council, which was with promises and bells and whistles about how it would be different. And yet, rogue players, including Cuba today, China today, sit on that panel and spend most of their time criticizing Israel while China, even during its periodic review, gets through almost unscathed.

On one of those more recent trips to Geneva for a Human Rights Council meeting, I went to the press conference being hosted by the Chinese and asked one question after another of their ambassador who finally just shut down and left and walked out the door because they did not want to answer any real questions. They wanted softballs by a compliant press, kissy-faced diplomacy by people who

say, oh, are you not just great and making progress, while people are being tortured and treated with impunity.

My question would be, and, Dr. Li, you might want to speak to is, as backers of the Convention Against Torture, Manfred Nowak, I may be wrong on this, was the last one to actually get into China as a special rapporteur. And that was, what, 2005? And yet, we get all this talk and this talk of transparency and openness, and yet special rapporteurs cannot get in to look at the torture situation.

And I would just say parenthetically, when I was pushing against what Google was doing in censoring the internet and doing just what the Chinese Government wanted it to do, when you went and put in "torture," and I did it myself in a cafe later on, years later in an internet cafe in Beijing, you write in "torture" and you get Gitmo and you get what the Japanese did, which was horrific, to the Chinese during the Second World War. Nothing about Manfred Nowak's work or any of the other commentaries on the pervasive use of torture by the Chinese.

How do we get the United Nations Human Rights Council—I have brought it up personally with Prince Zeid, the high commissioner for human rights, and said the respectability of your group and the council itself as well as your bureaucracy are compromised when you look the other way. And that is what is happening through these horrific offenses now against human rights defenders by human rights abusers with the prevalent use of torture.

How do we reform the Human Rights Council and get the United Nations to finally step up and say—as was said earlier in testimony they are thin-skinned. When that ambassador walked off the stage, it was, like, let us engage, however long it takes, show me where I am wrong. You know, and I, of course, have had a lot of documentation in my hand I handed to one of his deputies as he walked out the door.

Ms. LI. When China was being voted for the last Human Rights Council membership, among 193 countries, 185 voted for China. The number could be 184, 186, but it is about that many. So do the math, where are the pro-democracy, pro-human rights governments? What are they voting? Whom are they voting?

So it is very difficult to fight at the United Nations for human rights abusers, just as here, in this country, everywhere. But that is not a reason for us to back down.

And the way I am saying this is, first, when the United Nations high commissioner for human rights sends out a statement about lawyers, about Liu Xiaobo, about Tibet, China protests immediately. That means it matters. It matters when voices are coming out of that forum.

During any kind of treaty review of China's obligations to not only the Commission Against Torture, but socioeconomic rights, rights of the child, they would send a huge delegation. To do what? To work on the members of the treaty committees one-on-one to issue threats, to basically just try to get them to talk differently. And this did not work in most cases, I think, as the members are pretty independent.

So what it means is that the Chinese Government does care about face and they do not want to lose face in those forums. That means it is important for us to present solid evidence at the same

time while the government is trying to influence those reviewing processes, including the Universal Periodic Review. Civil society should also use that forum. Other governments should also use that forum to fight them nail and tooth to really be using that forum rather than saying, OK, we give up, when this forum is discredited, we are out of here.

Then you know what is going to happen? China is increasing its donation to the United Nations and they are becoming ever more active in the Human Rights Council and all the United Nations human rights forums. And they are going to buy, they are going to lobby, they are going to get votes from other countries. And they are going to not only get away from their human rights violations, but change that institution.

They wanted to rewrite the treaties, they wanted to do all that to get away from basically. So, I think all this means it is a very important battleground, we should not give up on it.

Mr. HALLIDAY. Mr. Cochairman, may I also say that as a U.S. citizen and as an observer of international influences on China, I feel it is imperative that the U.S. Government should maintain its leadership position in the United Nations Human Rights Council.

I know you raised the question of reform and I know that there are issues there. Nevertheless, it is critical that China does not erode or dilute universal norms of law or lawyers or rights.

And the Human Rights Council, despite its defects, is nevertheless a prominent forum. It is a prominent forum not only for states that will be outspoken and bold in support of the international moral and political order, but it is a crucial forum for non-state organizations to be able to bring their observations into this United Nations forum. It asserts global norms and maintains some kind of level of accountability.

I would say, frankly, that for the United States to surrender to an authoritarian country like China would be defeatist and, indeed, ultimately, it will be counterproductive, both for the foreign policy of the United States, but also for the international moral and legal order.

Thank you.

Representative SMITH. Thank you.

Chairman RUBIO. I just have one follow-up question on that. And that is, for example, about two weeks ago we saw the nation of Panama break its relations with Taiwan for purposes of appeasing a position that China had exerted influence.

I have had cities in my home state come to me and ask for us to open the way for Chinese consulates. But, of course, the price of opening a Chinese consulate in a city is the closure of a Taiwanese one. So we know that these efforts that you have described in terms of pressure diplomatically, they also exert on nations outside that context and even here domestically.

And I was just curious whether anyone here had had an experience here in the United States where you were either not allowed to speak or disinvited at a university, to a business, at a media outlet, anywhere where you felt that perhaps your voice, that your potential hosts were dissuaded from giving you an opportunity to participate because of pressure from China here in the United States.

Mr. TENG. Yes. So, I have two examples. My scheduled speeches were canceled by universities in the United States.

Chairman RUBIO. Which ones, which universities?

Mr. TENG. One is Harvard.

Chairman RUBIO. Harvard.

Mr. TENG. Yes.

Chairman RUBIO. Why did they tell you they canceled the speech?

Mr. TENG. I think two years ago when the president of Harvard was visiting China and Chen Guangcheng and I were going to give a speech at Harvard and they canceled it.

And I think last time when I was here, I gave a testimony about my own book, it was canceled by ABA, American Bar Association. So they invited me to write a book and I signed the agreement, but they later rescinded the proposal saying that publishing my book will endanger their programs in China.

Chairman RUBIO. So the American Bar Association, which represents lawyers and, therefore, defenders of justice, canceled the publication of a book that they invited you to write because they were afraid it endangered their programs in China?

Mr. TENG. Yes.

Chairman RUBIO. We did write a letter in that regard, but I want people to hear that so that they understand that this is not something happening halfway around the world. They are doing it to people and organizations in the United States with, I imagine, the threat of being unable to participate in activities in China, either economic or other repercussions.

Is there any other—do you have another one, or those are the two that come to mind? You said there were two universities. Do you remember what the second one way?

Mr. TENG. No, no, just——

Chairman RUBIO. Harvard.

Mr. TENG. Yes. So there are some other examples. They tried to invite me, but because I am sensitive, I am going to talk about human rights, politics, and they refuse to invite me.

And a lot of experiences that when I was giving a talk in a university, the other department, like Chinese department or Confucius Institute, they refuse to forward the posters and they told their students not to come to my presentation.

Chairman RUBIO. Did someone else have something to add? I thought I—anyone else have a similar experience that they could share?

Well, do you have any further questions?

Representative SMITH. No, just thank you again, Mr. Chairman.

Chairman RUBIO. Well, I thank you all for being here. I know at varying degrees, but across the board it takes some level of real courage, we have heard, not just about the threats of cancellation, but the real risks to family. And we are blessed to live in this republic where oftentimes the worst thing that happens is somebody says something really mean about us on Twitter.

And these hearings are a good reminder that in many parts of the world, including the most populous nation on earth, the consequences of speaking out or dissent are significantly higher. And I think it speaks to the essence of who we want to be as a nation,

as a people. Is America simply a geographic territory? Or is it also an idea? And if we are an idea, then that idea is that we believe all human beings are entitled to rights that are given to them at birth by their Creator and government's job is to protect them, not to decide them and certainly not to deny them.

And we seek not to impose our point of view on the world. Some people would disagree with that statement, but I am not.

Nor do we seek to contain China. China is an ancient, revered culture with thousands of years of contribution to mankind, some of the greatest inventions and innovations in human history came from China. It is a nation with an incredible history and I believe an incredible future.

I welcome China's rise in many ways. I do not welcome a totalitarian state's rise. I do welcome China's rise because I believe its people have the opportunity to contribute. And we seek partnership with the people of China to solve—just think about the problems in the world today. If somehow there was a Chinese Government that cared about the rights of all mankind, combined with it could work together with us, I think we would be a lot further along on some of the major issues confronting this country.

But when you do not care about the rights of your own people, why would you care about the rights of anybody else? And that is our problem with the Chinese Communist Party and its leadership, not its people.

And I remain hopeful that that will change. But in the interim, we will continue hopefully to speak on behalf of those who agree with us, but do not have the opportunity to express it openly in the nation of their birth.

So we are just grateful to all of you for being here and for your time, for your testimony, for your contribution. We look forward to sharing your testimony with our colleagues and continuing to address these issues time and again.

And with that, thank you for starting the meeting today, again, to our cochairman.

With that, our hearing is adjourned.

[Whereupon, at 3:55 p.m. the hearing was concluded.]

# A P P E N D I X

# PREPARED STATEMENTS

## PREPARED STATEMENT OF TERENCE C. HALLIDAY

JUNE 28, 2017

### INTRODUCTION

Mr. Chairman, Mr. Cochairman, and distinguished Members of the Commission, I am privileged to be invited to participate in this hearing. I have a long-standing admiration for the work of the Commission.

In my opening remarks, I address the meaning and significance of China's unprecedented crackdown on lawyers almost two years after its onset in early July, 2015.

My comments are derived from the empirical research of my research team into criminal procedure law and criminal defense lawyers over the past twelve years. Our findings, published in our book, Criminal Justice in China, concludes that China's legal system and legal profession have come an enormous distance since enactment of the 1979 Criminal Procedure Law. Nevertheless, on a critical number of issues integral to the defense of basic legal freedoms, China has turned away from reform both in its law and its treatment of a key segment of the legal profession.

A sudden turning point occurred on July 9, 2015 when China launched a nationwide crackdown on activist lawyers.

The '709 crackdown,' as it has been colloquially labeled, has been unprecedented in scale and severity. Within days, hundreds of lawyers across China were detained, disappeared and interrogated. Lawyers have been intimidated, tortured, charged with serious crimes and sanctioned severely.

Why did this crackdown occur?

Research on activist lawyers reveals deep grievances held by hundreds of millions of Chinese who suffer from health-threatening pollution, from takings of their houses and land, from widening inequality, from religious controls and persecution, from discriminatory treatment of minorities, from inadequate protection of workers and women, and from exploitation and vulnerability of migrant laborers, among others.

The sheer quantity of disaffected and angry populations can fuel widespread unrest. Lawyers often become the help of last resort when every other channel has failed. Therefore, over the past several years the Chinese Community Party has faced a double-threat to its survival: on the one hand, economic and social problems appear to be multiplying and intensifying; on the other hand, lawyers increasingly have been articulating and expressing those grievances through law in highly visible ways.

What precipitated the crackdown on lawyers on July 9, 2015?

1. Over the last several years, activist lawyers significantly increased in numbers. Hundreds of new activists, many of them young and well-educated, signaled their willingness to join the frontline.

2. Lawyers magnified their ability to mobilize. Since 2011 lawyers increasingly came together as large defense teams in difficult trials. Through social media, activist lawyers could create instant crowds to rush to a courthouse or defend a lawyer being harassed by police. Nationwide online networks could mobilize hundreds of lawyers for new cases or emergency situations.

3. The power of social media multiplied the impact of a new type of lawyer . So-called "die-hard" lawyers actively used social media and street theatre to activate supporters and expose problems in defending their clients. Some lawyers had accumulated thousands or even millions of followers on Weibo, China's equivalent to Twitter.

Clearly, China's leaders felt vulnerable to activist, die-hard and ordinary lawyers' enhanced powers to mobilize publics.

What motivates these lawyers to exhibit such courage in the face of a regime that does not hesitate to use inhumane and even life-threatening measures against its opponents?

Our research reveals that courage for many lawyers arises from their own life experiences, such as harms to parents during the Cultural Revolution, participation in the 1989 Tiananmen student movement, or shocking experiences in their legal practice.

Many lawyers build their courageous representation upon legal ideals that underwrite a good political society. First, they insist on protection of basic legal freedoms, such as right to be represented by a lawyer, due process in trials, and fair adjudica-

tion. They insist upon freedoms of speech, association and religion. Second, they are committed to a vibrant civil society as it is expressed through voluntary associations and an open public sphere. Third, these activist lawyers strongly oppose arbitrary executive power and call for checks and balances within the state.

Our research documents that many lawyers, notable and ordinary practitioners, draw their courage also from their Christian faith. Christians insist upon the values of equality, most importantly, that in the eyes of God and the eyes of the law, said one, "Chairman Mao is as equal as me." They champion the Judeo-Christian emphasis on a political and legal order that delivers justice, often quoting, like Martin Luther King, the biblical prophets Amos and Micah. They believe in fairness—that justice should be available reliably and fairly to all, whether they are Han Chinese or Tibetan, Party members or Falun Gong members. Finally, they hold China's law accountable to God's law.

I consider it probable that Party leaders fear Christian lawyer-leaders who have strong relationships with Protestant churches across China and some who have significant international connections.

What does the lawyer crackdown tell the world about China's future?

Viewing China through the lens of courageous lawyers reveals that legal change has turned toward repression, a repression which has taken deeply sobering turns since mid-2015.

Nonetheless, deep impetuses for change remain within China. Repressive actions may be self-subversive. Notable activists refuse to surrender easily or to go quietly. Their wives, their comrades, spring to their defense. Significant numbers of grassroots lawyers continue to harbor visions of alternative legal-political futures. An international community ratchets up its efforts at solidarity, pressure and support for defense of lawyers.

Where goes China may depend very considerably on where go its lawyers. Will it follow long peaceful paths of reform and the expansion of basic legal freedoms offered by the activist lawyers. Or will China lurch towards a violent explosive path that could lead to fearful unpredictable outcomes?

RECOMMENDATIONS

The United States Government and the international community of states, international organizations, and publics should stand in solidarity with China's activist lawyers and hold China's practices strictly accountable to global standards, most importantly those inscribed in U.N. conventions, principles, and institutions. These are applicable to all persons, all places and all states without exception.

The United States Government should maintain its leadership position in the United Nations Human Rights Council and other authoritative international bodies so that China does not erode or dilute universal norms of law, lawyers, and rights.

The United States Government should use all means at its dispoal, including joint statements with other states, bilateral dialogues, and monitoring by U.S. agencies to press China to adhere to global standards in its treatment of all its lawyers, most especially those swept up in the crackdown.

The current administration should strengthen the capacity of the U.S. Department of State and other executive agencies to monitor treatment of vulnerable populations in China and particularly lawyers who represent those populations.

U.S. Government agencies, including the CECC, should mobilize U.S. firms operating in China to recognize the dangers their employees and partners face as China offers less and less protections to persons inside China who cross invisible lines being drawn and redrawn by China's security apparatus.

The United States should lead other states in the call for release of activists being punished for their rights defense work, and reject the criminalization of their legitimate exercise of rights protected by Chinese and international law.

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## PREPARED STATEMENT OF TENG BIAO

JUNE 28, 2017

Mr. Chairman, Mr. Cochairman, and distinguished Members of CECC, I'm honored to be invited to testify at this specially important hearing. The coming July 9, the 2nd anniversary of 709 crackdown, there will be events in DC, HK, Taiwan and some European cities to mark the inaugural china human rights lawyers day, which I have been organizing and coordinating for months.

Chinese human rights lawyers have since 2003 become one of the most active and effective forces in China defending rights and freedom, and inevitably, have been the target of government's persecution since the beginning of the rights defense

movement in China. Gao Zhisheng and other lawyers were put into prison and brutally tortured. Because of my work of promoting human rights and democracy since 2003, I was disbarred, banned from teaching and eventually fired, banned from travelling, and kidnapped for three times by the secret police. In 2001 I was detained in a black jail for 70 days in an extreme form of solitary confinement, physically and mentally tortured. My wife and daughter were banned from travelling abroad, and my wife was fired the company she worked for due to the pressure from Chinese government. Collective punishment is frequently used by Chinese authorities to maximize intimidation. The purpose of torture and collective punishment was to make me stop my human rights work but I didn't.

The persecution of rights lawyers reached its peak on July 9, 2015, known as the "709 crackdown." More than 320 human rights lawyers were kidnapped, detained or interrogated. Eight of them are still in prison. Wang Quanzhang is still disappeared since July 28, 2015,his family and lawyers don't even know whether he's alive or dead. Dozens of lawyers were severely tortured, including beatings, electric shocks, sleep deprivation, prolonged interrogations, death threats, months or years of solitary confinement, humiliation, forcible televised confessions, so on and so on. Notably, it has been confirmed that many lawyers and activists were force-fed with medicines which caused them muscle pain, blurred vision and other physical and mental harm.

The prison conditions and the treatment in detentions are extremely inhuman and cruel in China. Just the day before yesterday we received news that Nobel laureate Liu Xiaobo has been diagnosed with late-stage liver cancer. Ill treatment in custody may well have contributed to the disease; we know for certain deliberate neglect aggravated the cancer, given how advanced the disease appears. I request sincerely that you esteemed members of the Commission and all people who support freedom in China, please do something to urge Chinese government to immediately& unconditionally allow Liu Xiaobo to obtain medical treatment wherever he wants.

Suppression has increased markedly not only against human rights lawyers, dissidents and NGOs, but also against media, churches, religious groups labeled "evil cults" including FalunGong, petitioners, activist netizens, liberalized scholars and artists. In a report published in February 2017, Chinese Human Rights Defenders (CHRD) documented the deteriorating situation of rights defenders and NGOs. Many new and ongoing cases of enforced disappearance, arbitrary detention, and acts of torture were reported, and the number of criminal detention and conviction, especially the use of "endangering state security charge" were increased. A human rights activist felt the difference, "There are no more 'gray areas.' To advocate for human rights in China today, you must be willing to accept the reality that the government views your work as 'illegal'." (CHRD 2017) Chinese government has obviously tightened control over information dissemination, teaching materials, publishing and social media. Some laws and regulations, with a clear purpose of controlling and oppressing the rights defense movement and civil society, were put into effect. State Security Law, Foreign NGO Management Law, Charity Law, Cyber security Law, etc, have already curtailed the development of rights activism and civil society, putting fundamental rights and freedom in danger.

The "Rights Defence Movement" (weiquan yundong) has emerged since early 2000s as a new focus of the Chinese democracy movement, after the Xidan Democracy Wall movement in late 1970s and the Tian'anmen Democracy movement in 1989. The main political-social factors behind the rise of China's rights defence movement are as follows: recovery of legal professions, new ideological discourse, new space for traditional media and the rise of the internet and social media, the development of the market economy, and China's entry to global economy; the dissemination of liberalism ideas and expanded consciousness of civil rights.

Let's take a brief look at the history of the Chinese Communist Party. When the CCP was facing a deep political and economical crisis in the late 1970s after waves of political campaigns and the brutal Cultural Revolution, it had to introduce a process of legalization and marketization. Legalization was necessary for establishing social order and market economy and thus was beneficial to the political system when mass mobilization was not applicable to the political-social situation any more. Millions of laws and regulations were made, legal professions were recovered, but the CCP never meant to accept a democratic transition or a system with rule of law. Oppositional politics is prohibited, but as an unintended consequence, we lawyers and rights advocates tried our best to use existing legal channels to defend human rights and freedom. Starting with a narrow space, the rights defense movement attracted more and more supporters, such as lawyers, bloggers, pro-democracy scholars, petitioners, persecuted religious groups, victims of human rights abuse, and political dissidents. These are incredible achievements under such a repressive regime,

for the past 14 years, the development of the rights defense movement was expressed through at least four trends, namely, organization (zuzhi hua), street activism (jietou hua), politicization (zhengzhi hua) and internationalization (guoji hua).

There is a clear limitation to China's legalization, that is one-party rule, the number one priority of the CCP. Once the CCP senses the use of law could be a potential challenge, it never hesitates to nip it in the bud. Not long after the emergence of the rights defense movement, the Chinese government saw it as a real threat to the regime and never stopped its crackdown. When Xi jinping took his office, what the CCP was facing was increasing crisis: political, economical, social and ideological crisis. The calculation of Xi jinping and top CCP leaders is that without a "war on law" to destroy the resisting ability of the social and political movement a color revolution will occur and thus the monopoly of power of the CCP will be in danger. This is the political background of "709 crackdown", the worst crackdown on lawyers since the recovery of judicial system in late 1970s.

Upon the more brutal suppression and tighter social control under Xi Jinping's rule since 2013, some analysts asserted "the end of the rights defense movement", but, in my opinion, the idea of the rights defense movement is still showing its exuberant vitality, the spirit of the rights defense movement is still gaining moral and social support, and the persistence of the rights defense movement is still shaping China's politics like unstoppable lightning in the darkness.

Once again, the CCP's war on law makes it urgent and necessary to change U.S. human rights policy towards China.

In 1989, the CCP crushed a non-violent democracy movement with machine guns and tanks, killing hundreds of students and civilians. 28 years have passed since the Tiananmen massacre and it is a shock to many people when they take a retrospective look at what happened to the relationship between China and the rest of the world. In 1989, all democracies condemned the Tiananmen massacre, sanctioned Chinese dictators and supported Tiananmen activists in jail or in exile. Yet very soon Western leaders couldn't wait to welcome Chinese butchers and dictators, rolling out their red carpet, replete with eager hugs and state banquets. In 1994 U.S. Government granted permanent most-favored-nation (MFN) status to China to delink human rights to trade, despite protests from human rights groups. Then China was allowed to enter the WTO and international markets. China was given the opportunity to host Olympics, World Expo, APEC and G20. China was voted in as a member of United Nations Human Rights Council again and again.

Now China has become the second largest economy. China is playing an active and aggressive role on the international stage. The Asian International Investment Bank (AIIB), "One Belt One Road", South China Sea aggression, internet sovereignty, cyber attacks, abducting overseas booksellers and activists, Confusion institutes which erode academic freedom—the list goes on. China is demanding a rewrite of international norms, wanting to create a new international order in which rule of law is manipulated, human dignity is debased, democracy is abused, and justice is denied. In this international order, corruption and persecution are ignored, perpetrators are immune, and dictatorial regimes are united and smugly complacent.

China then gained the clout to say no to the West and the West kowtows to China through self-censorship and a policy of appeasement. Besides short-term pragmatic interests, I would like to point out that U.S. human policy towards China has long been based on a series of erroneous theories and mistaken presumptions regarding Chinese politics and Chinese society. I don't have time to go into details but the erroneous theories cover misunderstandings of China's market, constitution, rule of law, international accountability, NGO, so on and so on.

I'd like to offer a few recommendations here:

- Link HR to trade and other important issues that the CCP cares about.
- Implement the Global Magnitsky Act to ban Chinese perpetrators and corrupt officials from entering the United States.
- Punish U.S. and western business which cooperate with Chinese authorities and participate in human rights abuses.
- End the 110 Confucius Institutes in the United States educational institutions.
- Don't fund the oppressor.
- Support real NGOs not GONGOs.
- Name and shame.
- Expel China from the United Nations Human Rights Council.

A powerful and autocratic China will bring calamities to mankind. Supporting democracy and human rights in China not only corresponds to American declared values; it will also benefit American politics, society and economics in the long term. Please stand on the side of Chinese people, not on the side of Chinese Communist

Party. China should be represented by the human rights lawyers, activists, dissidents and all Chinese people fighting for freedom and democracy, not the illegitimate Party and government.

**Prepared Statement of Xia Chongyu**

**June 28, 2017**

Dear Congressmen and respectful audiences, Ladies and gentlemen. I am Chongyu Xia, son of Chinese human rights lawyer Lin Xia. It is such a great honor to share about my father's situation and what my family has been though these past years.

My father dedicates himself to be the voice for the voiceless and provides pro bono legal assistance to victims of human rights violation cases. On Nov. 8th 2014, my father was abducted by secret agents without a warrant. The government did not inform my mother of my father's arrest until five days after the fact, and denied my father's basic right to meet with his defense attorney for three full months. Meanwhile, the Police kept asking my father about the politically sensitive cases he represented. My father was physically and mentally tortured by the police, who used interrogation techniques such as shining a strong light on his eyes to keep him awake for days. They tried to break him so that he would confess to fraud, but all their attempts failed. After 600 days of imprisonment, he was unfairly tried in a closed door hearing. My father was denied a personal statement in court and none of the witnesses had a chance to testify. The second court of Beijing sentenced my father to 12 years in prison for fraud without appropriate evidence. My father's final sentence was delivered without a fair second trail in Feb. 2014. No one ever accuses my father in person.

I refuse to accept this illegal and unjust verdict. In April, I presented my petition at a Convocation of Liberty University, and the response was overwhelming. However, when I tried to deliver my

petition with over 14,000 signatures to the Chinese embassy, no one would see me. Before I left, I read my petition aloud at the gate of the embassy.

At this moment, I have collected over 94,000 signatures. Most of them come from Americans, and the rest are from other countries around the world. I am not alone. As a rising nation, China's deteriorating human rights record is unacceptable. When a human rights lawyer cannot secure his own fundamental rights, I believe every member's rights in the society are threatened. Alongside with me, there are some family members of other persecuted human rights lawyers. The father or husbands we deeply loved who selflessly helped the underprivileged people in China were persecuted in return.

Human rights lawyers are the cornerstone of society. I hope the US. Government can increase its involvement in such cases in the future. Moreover, I wish the Congress of America could urge the Chinese government to stop controlling the judiciary system and stop the persecution against 709 lawyers. Lastly, I plead that the White House summon the Chinese ambassador and ask the Chinese government to respond to me and my 94,000 petition supporters. Meanwhile, I recommend the White House or State Department issue a clear policy regarding this type of case. By making a clear stance, the U.S. Government would communicate to the world that human rights violations will not be tolerated. I appreciate the Congress for organizing this hearing so that our voice could be heard by the world.

Lin Xia's Background from CHDR(Chinese Human Rights Defenders)----

**Background**

Defense lawyer Xia Lin (夏霖), a colleague of prominent human rights lawyer Pu Zhiqiang (浦志强) at Huayi Law Firm in Beijing, was summoned by police for questioning in November 2014. He was later put under criminal detention, but his family did not not receive an official arrest notice. Prior to that, authorities in Beijing repeatedly blocked Xia from visiting his client Guo Yushan (郭玉闪), the founder of an independent think tank, Transition Institute; Guo was seized during the suppression of supporters of the Hong Kong pro-democracy protests, one month before Xia was summoned. Xia Lin was also on the legal team for Pu Zhiqiang, who had been detained in May 2014 for commemorating June Fourth. Police were reportedly looking into Xia's finances a few days before he was taken away. Police recommend Xia be indicted in May 15, 2015. Officials restricted Xia Lin's access to legal counsel for months, but he was granted a visit in September 2015, after which his lawyers reported he was in good health. The procuratorate indicted Xia on December 2, 2015.

According to his lawyers' defense statement, authorities accused Xia of swindling over 10 million RMB (approximately 1.5 million USD) from several individuals to pay off his gambling debts. His lawyers confirmed Xia Lin had borrowed money, but had been privately lent via contract with the relevant parties and did not constitute a criminal act, let alone fraud. One of the individuals involved submitted evidence to court that he freely lent money to Xia, and none of the four relevant parties had ever filed a criminal or civil suit against Xia. They also argued in court that authorities had not provided any evidence of gambling debts, including such basic information as the amount owed and to whom. Furthermore, Xia Lin told his lawyers that the majority of police interrogations focused on his past handling of "politically-sensitive" cases, questions about Occupy Hong

Kong, and his relationship with individuals such as Guo Yushan, Pu Zhiqiang, and Ai Weiwei, amongst others, and not the alleged fraud. Xia asserted his innocence of the charges and said the case is an act of reprisal for his professional work.

His lawyers raised in trial the numerous legal and procedural violations in Xia Lin's case, including: deprivation of legal counsel, mistreatment, such as gruelling interrogation sessions, shining bright lights on him, and extensive use of shackles, and refusing to grant the defence lawyers full access to the evidence. The court also refused to grant a request to exclude evidence obtained by torture after a witness testified that he had been threatened by police to give evidence against Xia Lin, and did not allow the defence to call their witnesses to testify in Xia's defense, nor allow the defense to question the other witnesses.

The Beijing court convicted Xia on September 22 and sentenced him to 12 years in prison and fined him 120,000 RMB. He was also order to repay 4.81 million RMB to two victims. Xia said he will appeal the sentence and reaffirmed his innocence, according to his wife, who told a media outlet after the sentencing that he shouted "I know this is revenge to me because I was the lawyer for all those sensitive cases." Xia appealed the verdict, but his appeal was rejected and the court upheld the original verdict: however, his sentenced was reduced to 10 years.

Born on September 15, 1970, Xia Lin graduated from Southwest Institute of Political Science and Law (now Southwest University) in 1992. He participated in the 1989 pro-democracy movement while a student. After graduation, he was assigned to work at the Guizhou Province Public Security Bureau, but he decided to become a lawyer instead. After practicing law in Guizhou for over a decade, Xia decided to move to Beijing. According to a close friend, his decision was influenced by an article written by Yu Shicun (余世存), a famous essayist and intellectual, that criticized the generation who lived through 1989 but chose to neglect that part of history.

Xia has taken on many "sensitive" cases pro-bono, and he first gained prominence in 2006 for defending Cui Yingjie (崔英杰), a migrant worker and street peddler who had killed an officer from the City Urban

Administrative and Law Enforcement (*chengguan*) who had confiscated his property. A year later, Cui received a death sentence with reprieve instead of immediate execution. In 2009, Xia represented Deng Yujiao (邓玉娇), a hotel worker who killed in self-defense a local official who tried to rape her. In the end, Deng avoided any criminal punishment. That same year, along with Pu Zhiqiang, Xia worked on the case of arrested environmental activist Tan Zuoren (谭作人), who was given five years in prison for wanting to investigate the quality of school buildings that collapsed during the Sichuan earthquake in 2008. Xia and Pu also represented Ai Weiwei and his wife in the tax evasion case brought against their company Beijing Fake Cultural Development, Ltd. following the artist's detention in 2011.

**听证会证词**

尊敬的议员，听众们大家好，我是人权律师夏霖之子夏崇禹，今天很荣幸能来到国会分享我父亲的案子和我家庭的遭遇。

我的父亲长年致力为中国基本人权受到侵害的受害者提供无偿的援助,为无声者发声。2014年11月8日，在没有任何文件的情况下被一群身着便衣的人从家中带走，5天后母亲才收到警察局的通知。在他被带走后，警方大量询问他代理过的案件案情，起初的三个月他被剥夺律师会见权，并在狱中遭到刑讯逼供，他们用高强度灯光持续照射，我父亲长时间得不到休息。他们企图用这种方式让我父亲认罪，但他始终没有屈服。我父亲在羁押600天后才等到一审开庭。一审庭审中法院不允许我方律师申请的证人出庭，并且禁止我父亲在庭审中作个人陈述。法院在没有足够证据的情况下一审以"诈骗罪"判处我父亲12年监禁。更令人气愤的是，法院二审对我父亲进行了不开庭宣判。本案至今无人指控我父亲。

我们无法接受这样的残酷迫害的和各样公开的不法行径，今年4月我在Liberty University的集会上上宣读了致中国大使馆的一封公开信，同时开始了征集签名的请愿活动，反响热烈。然

而5月10日我将征集到的约14000个签名并请愿书送到中国驻美国大使馆时，回应我的只有紧闭的铁门。在大使馆门前高声朗读请愿书后，我也只能无奈离开，继续我的签名征集。

时至今日，我已经征集到了超过95，000个签名，这些签名大多数来自美国，剩下的来自欧洲和世界其它地方。我知道我不是孤身一人，这样肆无忌惮地对人权的侵害在世界范围内都是不能容忍的。当一个人权律师都无法保障自己的基本权益的时候，其它人的人权状况可想而知。不光是我的父亲，在座的还有其他几位律师的家人，我们的家庭都因为帮助中国的弱势人群寻求公义而遭到报复，支离破碎。

律师群体是中国人权的最后一道防线，我希望美国政府更多地关注每一个个案。此外，我希望美国国会能够要求中国人大，履行他们的职责，督促中国政府，令其立即停止对司法体系的操控，以及对709律师的构陷迫害。最后，白宫召见中国驻美大使，要求中国政府对我和我请愿书的支持者作出正面回应。同时，我请求美国白宫或国务院对中国此类侵犯人权的案件给出明确的态度，对基本人权的暴行是不能被纵容的。感谢美国国会能召开这次听证会，让我们有一个发声的平台。

PREPARED STATEMENT OF XIAORONG LI

**Web**: Free Liu Xiaobo, Allow Him to Choose Doctors & Treatment

**Email**: Free Liu Xiaobo, Allow Him to Choose Doctors & Treatment

**Extract**: The Chinese government must free Liu Xiaobo, allow him to reunite with his family, and ensure he immediately receives medical treatment by doctors—and in the location—of his own choosing.

(Chinese Human Rights Defenders, June 27, 2017) - The Chinese government must free Liu Xiaobo unconditionally, allow him to reunite with his family, and ensure he immediately receives medical treatment by doctors, and in the location, of his choice. According to Liu's lawyers, Liu Xiaobo (刘晓波) was diagnosed with terminal liver cancer in late May. The Liaoning Prison Administrative Bureau confirmed that he had been granted "medical parole" and moved to a hospital in Shenyang on an unknown date. Liu Xia (刘霞), his wife, has said that Liu can no longer receive surgery or chemotherapy treatment for his cancer, which may have metastasized. CHRD urges the international community to offer Liu Xiaobo the best medical treatment they can provide, and to welcome his family if they choose to leave China. The Chinese officials complicit in the medical neglect of Liu Xiaobo in Jinzhou Prison, and in his arbitrary imprisonment, must be held accountable.

Liu Xiaobo, a poet and writer, was a leader in the 1989 pro-democracy movement and played a key role in Charter 08, the 2008 manifesto for democratization and human rights in China. The government imprisoned Liu after 1989 and then again in 2009, convicting him of "inciting subversion of state power" and sentencing him to 11 years in prison. In 2010, the Norwegian Nobel Committee awarded him the Nobel Peace Prize "for his long and non-violent struggle for fundamental human rights in China." The Chinese government did not allow him to attend the ceremony, at which he was represented by an empty chair. Liu Xia has been under illegal house arrest ever since, and is also in need of medical treatment for a heart condition. Before his detention, Liu was the editor of the online journal *Democratic China*, and had served as the president of the independent Chinese PEN.

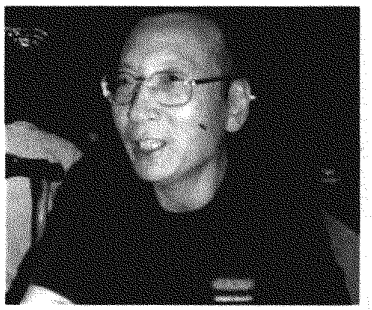
Depriving medical treatment to individuals in custody is a life-threatening form of torture In 2014, the United Nations expressed concern that detained Chinese activists and lawyers have been deprived of medical care as a form of government reprisal. Failure or refusal to provide adequate medical care for detainees violates Chinese law and international standards. This form of abuse has led to the death of activists, as seen in recent years in the tragic case of Cao Shunli (曹顺利), and also in the cases of Chen Xiaoming (陈晓明), Duan Huimin (段惠民), and Goshul Lobsang. CHRD has been tracking cases of currently detained or imprisoned individuals who suffer from deteriorating health and have been deprived of adequate medical treatment and denied release on medical grounds. There are 11 individuals currently on our Medical Watch List, including Liu Xia. We urge the Chinese government to release them and allow them to access medical care of their own choice.

CHRD additionally calls on:

1. The UN Committee against Torture and the special rapporteurs on torture and the right to health to request detailed information from the Chinese government about medical care in Chinese prisons and detention facilities. They should press for the government to allow for independent investigations into allegations of deprived medical care involving Liu Xiaobo, Cao Shuli, and others.

2. The UN Human Rights Council to suspend China's membership in the Council while the government continues to grossly violate the human rights of Chinese citizens, such as Liu Xiaobo.

3. All like-minded governments and international organizations that publicly claim to support human rights to apply pressure to the Chinese government to release Liu Xiaobo and Liu Xia unconditionally, and ensure they receive medical care of their choice.



CHRD is calling on the Chinese government to allow Liu Xiaobo to reunite with his family, and to ensure that he receives medical treatment by doctors, and in the location, of his own choice.

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PREPARED STATEMENT OF HON. MARCO RUBIO, A U.S. SENATOR FROM FLORIDA; CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

JUNE 28, 2017

Good afternoon. This is a hearing of the Congressional-Executive Commission on China. The title of this hearing is "Gagging the Lawyers: China's Crackdown on Human Rights Lawyers and Its Implications for U.S.-China Relations."

We will have one panel testifying today. The panel will feature:

- **Terence Halliday:** Co-director of the Center on Law & Globalization at the American Bar Foundation, and Co-author of the book Criminal Defense in China: The Politics of Lawyers at Work;
- **Teng Biao:** Chinese human rights lawyer; Visiting Scholar at the Institute for Advanced Study; and Co-founder of the Open Constitution Initiative and China Human Rights Accountability Center;
- **Xia Chongyu:** Son of imprisoned human rights lawyer Xia Lin (pronounced SHAH LIN) and student at Liberty University; and
- **Xiaorong Li:** independent scholar; formerly with the Institute for Philosophy & Public Policy at the University of Maryland.

Thank you all for being here.

Before we move to the topic at hand I want to take a moment to acknowledge the news this week regarding the reported transfer of 2010 Nobel Peace Prize laureate Liu Xiaobo from prison to a hospital for treatment of late-stage liver cancer. This should not be confused with an act of mercy on the part of the Chinese government. His eight years of imprisonment—due to his eloquent appeals for non-violent political reform and protection of basic rights—remain a travesty of justice and a stain on China's rights record. And Dr. Liu's medical parole is not the equivalent of an early release from his prison sentence or that he has the freedom to meet with his wife, Liu Xia, other family members and friends. I've urged President Trump to seek the humanitarian transfer of Dr. Liu and his wife to the United States to explore what medical options may be available.

I'd like to briefly read a quote from an editorial that ran in the Communist-Party controlled *Global Times.* The writers gloated, "China has not collapsed as the West forecast in the 1980s and 1990s, but has created a global economic miracle. A group of pro-democracy activists and dissidents lost a bet and ruined their lives. Although Liu was awarded the Nobel Peace Prize, he is likely to face tragedy in the end." Any notion that Dr. Liu will receive adequate medical care under the supervision of his captors is absurd. I was pleased to read this morning that newly arrived U.S. Ambassador Terry Branstad has urged the Chinese government to allow Dr. Liu to seek treatment overseas.

As the Nobel Committee noted, Dr. Liu exemplifies the "long and non-violent struggle for fundamental human rights in China." That same spirit animates the work of the Chinese rights lawyers we will hear about today.

July 9, 2017, marks the two-year anniversary of the start of what has been described as an unprecedented nationwide crackdown on human rights lawyers and legal advocates in China—an event that's come to be known as the "709" crackdown.

While perhaps unprecedented in scale and coordination—nearly 300 rights advocates were detained, summoned for questioning, or disappeared—the crackdown began much earlier.

Xi Jinping's rule has been marked by extensive campaigns to silence political dissent, curtail civil society, and ensure ideological loyalty to and conformity with the Chinese Communist Party. No sector of society is untouched—business leaders, bloggers and social media users, university professors, journalists and religious adherents have all been targeted.

But China's rights defenders and lawyers have been the "tip of the spear" for even longer—as our second witness, Dr. Teng Biao, can no doubt attest. This small, but tenacious group is closely linked to the growth in legal rights consciousness among ordinary Chinese citizens. China's "rights defense" movement converged around incidents of injustice that resulted from the single-minded drive of the Chinese government and the Communist Party for rapid economic growth without political reform.

The victims of injustice included farmers who lost land from government expropriation; urban residents forcibly evicted without fair compensation; migrant workers trying to recoup unpaid wages; teachers, laid-off workers, and army veterans who lost their pensions; and parents whose children were made ill from ingesting contaminated milk powder. The movement has expanded to support free speech, the pro-democracy aspirations of Hong Kongers, ethnic minority rights, and other issues.

Our first witness, Dr. Halliday, has conducted literally hundreds of interviews with these men and women—a group bound together by their shared conviction regarding the importance of protecting basic legal freedoms in a system where rule of law remains aspirational at best.

Among the lawyers featured in his latest book are those whose names and stories have captured headlines for the last two years. Their unjust and unexpected detentions nearly two years ago was, for many, the start of a long and harrowing ordeal marked by months in isolation, torture, coerced "confessions" and other forms of mistreatment. Some of these lawyers, like Jiang Tianyong—whose wife I had the privilege of meeting earlier this year— remain in detention. Others, like Li Heping, are no longer in captivity, but the brutality they experienced left them visibly physically altered. Many have been disbarred and will never again practice law in China. Still others live under constant surveillance and harassment.

It is tempting in the face of China's worsening and increasingly brazen human rights violations to grow disheartened. Which is why I think it is equally important to spend some time today examining another part of this crackdown that is unprecedented—and that is the response of some of the family members of those detained.

By their own telling, many of the wives of these rights lawyers had not previously been involved in their husband's efforts to pursue justice and accountability from their own government. But as the present system conspired against them and their families, they became advocates in their own right. In case after case, these women took up the mantle of advocacy on behalf of their husbands. Their personal accounts of intimidation and harassment—of landlords refusing them housing, of children denied entry to local schools, of movement restricted and lives lived under constant surveillance—coupled with their compelling public defense of their husband's innocence, has, in the words of Dr. Halliday, opened up, "new line of struggle that we have not seen before in China".

Similar courage and boldness is on display today with the testimony of Xia Chongyu about his father's plight.

Even for those of us who hold steadfastly to the view that U.S. foreign policy must be infused with a principled defense of universal human rights and the promotion of basic freedoms, there remains the notion that change in China will ultimately *come from within.* I agree. And China's rights defense lawyers are at the vanguard in pressing for systemic change, in seeking accountability and redress, and in working toward a day when China is a nation where the law is used to protect rights not suppress them. It is our duty to stand with them in this monumental task.

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PREPARED STATEMENT OF HON. CHRISTOPHER SMITH, A REPRESENTATIVE FROM NEW JERSEY; COCHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

JUNE 28, 2017

Chinese officials repeatedly tell me I should focus more on the positive aspects of China and not dwell so much on the negative.

That is an extremely difficult task when you read the horrifying and sadistic accounts of torture and enforced disappearances experienced by lawyers and rights advocates.

It is hard to be positive when you contemplate Liu Xiaobo's cancer diagnosis and the fact that China effectively silenced its most brilliant democracy advocate.

The empty chair at Oslo speaks volumes about the Communist Party's abiding fear that freedom will upend the power of the privileged few when they should be seeing liberty as a path to greater peace and prosperity.

At a hearing last month in the Subcommittee on Global Human Rights in the House Foreign Affairs Committee, I heard testimony from the wives of five detained or disappeared human rights lawyers. These courageous women have become effective advocates from their husbands and for all those detained in the "709" crackdown.

They described in horrifying detail the physical, mental, and psychological torture experienced by their husbands, including marathon interrogation sessions, sleep deprivation, beatings, crippling leg tortures, and prolonged submersion in water.

Many of their husbands also were forced to take alarming quantities of drugs including tranquilizers, barbiturates, antipsychotic drugs, and other unknown substances daily.

What they described was shocking, offensive, immoral, and inhumane. It is also possible that Chinese officials believe the international community will not hold them accountable.

After the hearing, I wrote to the heads of the American Medical Association, the American Psychological Association, the World Health Organization, as well as to Secretary of State Tillerson and Ambassador Nikki Haley.

I have asked for condemnation of the practice of torture and medical experimentation on prisoners of conscience. I have also ask for investigations so that serious questions will be asked of the Chinese government.

Finally, I have asked for accountability. I have urged Secretary Tillerson to start investigations under the Global Magnitsky Act, a bill that I lead on the House side last year, so that any Chinese government officials complicit in torture should never be allowed to benefit from entry to the United States or access to our financialsystem.

The issues of torture and "residential surveillance in a designated location"—effectively enforced disappearances—will be priorities of mine and of this Commission moving forward. I believe these are issues where diverse and multi-level coalitions can be built to raise issues with the Chinese government.

I would also like to do more to prioritize the protection of human rights lawyers and their families. At the hearing last month I heard the phrase "The War on Law" used to describe the systematic effort to eviscerate the network of human rights lawyers.

That phrase struck me because, though the number of human rights lawyers in China is small, what they stand for was nothing less than the rule of law for everyone—particularly those persecuted or aggrieved by the Communist Party.

They stand for the right of everyone in China—religious believers, ethnic minority, petitioners, labor activists, or victim of corruption or a barbaric population control polices—to have a fair hearing, due process, and a justice that is not politicized.

The Communist Party sees this as a dangerous idea. It means that they should be accountable to the people—to hundreds of millions of people in fact seeking redress for persecution and Party corruption.

Xi Jinping is feted in Davos for his commitments to openness and the rule of law, but it is rule of law for the few and privileged and rule by law for the rest.

The failure to implement the rule of law, to favor a type of lawlessness in the pursuit of keeping the Communist Party in power, has serious and lasting implications for U.S.-China relations.

We must recognize, after the failure of two and half decades of the engagement policies, that China's domestic repression drives its external aggression, its mercantilist trade policies, and its unimaginable decisions to keep propping up a murderous North Korean regime.

I know the Chinese government wants me to focus on positive things. I think one positive development here is that the spouses (and families) of rights advocates and lawyers have given Beijing a rightly deserved headache. They have refused to be silent about their spouse's detentions or disappearances and have used the Internet and media to get out their message.

This trend is something new, something different, something we need to honor because they are under great pressure to be silent—through intimidation, harassment, and detention.

I want to say to our witness Chongyu that we appreciate your testimony here today and the fact that you are speaking out on behalf of your father. We want you to know that this Commission is an advocate for you, your family, and your father.

If you or your family face reprisals because of your testimony here today, the Congress will take it as a personal affront to the work of this body.

I know your petition has gathered 94,000 signatures, please make sure that my name is 94,001.

The one thing that gives me hope is that the people of China long for liberty, justice and opportunity.

The need for principled and consistent American leadership is more important than ever, as China's growing economic power, and persistent diplomatic efforts, have succeeded in dampening global criticism of its escalating repression and failures to adhere to universal standards.

The United States must be a beacon of liberty and a champion of individual rights and freedoms. The United States must also continue to be voice for those silenced, jailed, or repressed in China.

We cannot . . . will not . . . forget those in China bravely seeking liberty and justice and the unalienable rights we all share. Like China's human rights lawyers—and like Liu Xiaobo—those who bravely seek peaceful change in China.

It is their stand for liberty, human rights, and the rule of law that remain the best hope for a peaceful and prosperous future for the United States and China.

**Prominent Lawyer Cases**

- **Jiang Tianyong (in police custody since November 2016, formally arrested on May 31, 2017)**, a disbarred human rights lawyer who has defended Falun Gong practitioners, Tibetans, and members of other groups that authorities deem to be politically sensitive, has been detained since November 2016, and was formally arrested on May 31 on charges of "subversion of state power."[1] Jiang helped to defend prominent rights lawyer **Gao Zhisheng** and legal advocate **Chen Guangcheng**, and in 2014 investigated a "black jail" where Falun Gong practitioners allegedly were being held. He has been detained several times since 2011, and reportedly was tortured.[2] In November 2009, Jiang testified at a hearing before the Tom Lantos Human Rights Commission, in which he described abuses in China's One-Child Policy.[3]

- **Wang Quanzhang (in police custody since July 2015, indicted in February 2017),** a member of the Fengrui Law Firm, defended Falun Gong practitioners, human rights lawyers, and victims of illegal land grabs. After being detained during a trial reportedly for refusing a judge's command, Wang wrote a legal manual on judicial detention for other rights lawyers. Wang was held incommunicado for 18 months and indicted on subversion charges in January 2017.[4]

- **Xie Yang (trial broadcast on TV in May, current whereabouts unknown),** an attorney who defended rights advocates, was detained in July 2015. In January 2017, Xie's lawyers released a transcript in which he described various forms of torture he had endured while being held for six months under "residential surveillance at a designated location." During a court hearing on May 8, 2017, Xie pled guilty to charges of "inciting subversion of state power" and "disrupting court order," and denied that he had been tortured.[5] Xie was released on bail on May 9 before a verdict was announced. Xie's

[1] Elizabeth M. Lynch, "Codifying Illegality? The Case of Jiang Tianyong," *China Law and Policy*, January 20, 2017.
[2] Chinese Human Rights Defenders, "Jiang Tianyong," op. cit.
[3] Tom Lantos Human Rights Commission, "An Evaluation of 30 Years of the One-Child Policy, November 10, 2017, https://humanrightscommission.house.gov/sites/tlhrc.house.gov/files/documents/Backup%20of%2011-10-2009%20China%20One%20Child%20Policy.pdf
[4] Nectar Gan, "Human Rights Lawyer Swept Up in 709 Crackdown To Face Court in Tianjin for Subversion," *South China Morning Post*, February 16,2017; Michael Caster and Peter Dahlin, "China Should Be Proud of Wang Quanzhang - Instead It Persecutes Him," *The Guardian*, September 22, 2016.
[5] Nectar Gan, "Chinese Rights Lawyer Pleads Guilty to Subversion," *South China Morning* Post, May 8, 2017; Josh Chin, "Document of Torture: One Chinese Lawyer's Story from Jail," *Wall Street Journal*, January 20, 2017.

defense lawyer, **Chen Jiangang**, was detained during the proceedings.[6] Chen and his family were taken into custody while on vacation. His family was released, but Chen was forced to return home to Beijing under police escort, spending over 80 hours traveling by car.

- **Guo Feixiong (serving a 6-year sentence)**, the pen name of Yang Maodong, a legal rights advocate, was arrested in 2013 for demonstrating against the censorship of a formerly progressive publication, *Southern Weekend*. In 2015, Guo was sentenced to six years in prison for "gathering a crowd to disrupt social order." In December 2016, Chinese authorities suspended the legal license of **Li Jinxing**, Guo's defense lawyer, for one year allegedly for "interfering with court proceedings."[7]

- **Zhou Shifeng (serving a 7-year sentence),** headed the Fengrui Law Firm, at the center of the "709" crackdown, which had taken on many politically sensitive cases. In August 2016, Zhou was found guilty of "subversion of state power" and sentenced to seven years in prison.[8]

- **Hu Shigen (serving a 7.5-year sentence)**, a democracy advocate and Christian church leader with ties to the Fengrui Law Firm, was detained in July 2015 and formally arrested in January 2016 on the charge of "subversion of state power." He was convicted in August 2016 and sentenced to seven-and-a-half years in prison. Hu had formerly served a 16-year sentence for spreading information about the 1989 military crackdown in Beijing.[9]

- **Li Heping (suspended sentence)**, an attorney who had represented Falun Gong practitioners, members of unregistered Christian churches, environmental activists, and others, was tried for "subversion of state power." He provided assistance to prominent rights lawyer **Gao Zhisheng** and legal advocate **Chen Guangcheng**, and also was an advocate against the use of torture. Li was held at an unknown location beginning in July 2015 without access to his family or to defense lawyers. In April 2017, a Tianjin court, in a closed trial, sentenced Li to a three-year suspended jail sentence for "subversion of state power."[10]

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[6] "Rights Lawyers Li Heping and Xie Yang Released from Jail," *China Digital* Times, May 10, 2017; Tom Phillips, "China Puts Leading Human Rights Lawyer on Trial for Subversion," *The Guardian*, May 8, 2017 "UN Denounces China Crackdown on Lawyers, Seeks Release," *Reuters*, May 5, 2017.
[7] Te-Ping Chen, "Chinese Human Rights Lawyer's Legal License is Suspended," *Wall Street Journal*, December 2, 2016.
[8] Javier C. Hernandez, "Zhou Shifeng, Chinese Lawyer, Is Sentenced to 7 Years for Subversion," *New York Times*, August 4, 2016.
[9] Javier C. Hernandez, "China Sentences Hu Shigen, Democracy Advocate, to 7 Years in Prison," *New York Times*, August 3, 2016.
[10] Lucy Hornby, "China Sends Warning to Lawyers with Secret Trials," *Financial Times*, April 30, 2017; "The Anti-Torture Work of Lawyer Li Heping That Irked the Chinese Authorities," *China Change*, January 26, 2017.

- **Pu Zhiqiang (suspended sentence, completed on May 4, 2017)**, a human rights lawyer and government critic, was detained in 2014, along with other attendees of a small gathering to mark the 25th anniversary of the military crackdown of June 4, 1989. In 2015, a Beijing court handed Pu a three-year suspended sentence for the crimes of "inciting ethnic hatred" and "disturbing public order," based in part on comments that he had made online.[11]

- In August 2016, Chinese courts released three rights attorneys and activists from detention. **Zhai Yanmin**, a rights activist who worked for the Fengrui Law Firm, was convicted of "subversion of state power" and handed a three-year suspended sentence. **Wang Yu**, a rights lawyer at the Fengrui Law Firm who had defended Uyghur scholar and activist Ilham Tohti, was released on bail in July 2016 after she gave a televised confession criticizing the law firm.[12] She and her husband, lawyer **Bao Longjun**, also released on bail, are reportedly held under close official monitoring in Inner Mongolia. **Guo Hongguo**, a rights activist and member of an unregistered Christian church, was convicted of "subversion of state power" and given a three-year suspended sentence.[13]

- In a hearing on January 29, 2016, the Guangzhou Municipal Intermediate People's Court convicted human rights activists **Tang Jingling**, **Yuan Chaoyang**, and **Wang Qingying** of "inciting subversion of state power" and sentenced them to five years, three-and-a-half years, and two-and-a-half years, respectively. The three activists were among more than 300 signatories of Charter 08, a document published on December 10, 2008, calling for changes such as an end to one-party rule, the creation of an independent legal system and freedom of expression.[14]

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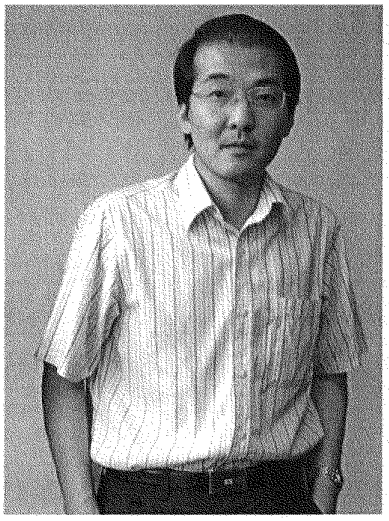
[11] Tom Phillips, Scuffles Outside Beijing Court as Human Rights Lawyer Pu Zhiqiang Goes on Trial," *The Guardian*, December 21, 2015; Didi Tang, "Chinese Rights Lawyer Pu Denies All Police Charges," *Associated Press*, December 10, 2014.
[12] Wang Yu's husband and colleague, Bao Longjun, and son, Bao Zhuoxuan, also had been detained.
[13] "Bailed Chinese Human Rights Lawyers Have Yet to Regain Liberty," *Radio Free Asia*, August 8, 2016; Human Rights in China, "Profiles: Gou Hongguo, Hu Shigen, Zhai Yanmin, and Zhou Shifeng, August 5, 2016.
[14] "Verdicts for Tang Jingling, Yuan Chaoyang, and Wang Qingying – The 'Three Gentlemen of Guangzhou'," January 26, 2016.

# Lawyer Xia Lin Will be Sentenced on September 22, and It Will Have Nothing to Do With the Law

Guo Yushan, September 22, 2016



LAWYER XIA LIN. PHOTO: INITIUM MEDIA

On September 22, after nearly two years in detention and a trial in August, lawyer Xia Lin (夏霖), my friend, will finally face his sentence.

Whatever he's been charged with, it's clear to everyone that it was only because he defended me that he has been imprisoned, and suffered as he has to this day.

In May 2014, Xia Lin got dragged into a number of disputes because of his involvement in Pu Zhiqiang's (浦志强) case. One day in mid June, me, Xia Lin, and Kaiping (黄凯平) were sharing drinks at Beijing Worker's Stadium, lamenting Pu's case. At a break in the conversation, Xia Lin suddenly said to me: "If you get sent to prison in the future, I'll be your lawyer. I'll fight your case publicly to the end and I'll do whatever it takes." I replied that, of course, if I'm thrown in jail, fight it by all means, fight it as you see fit, and you don't have to worry about the consequences for me. That we concluded, with Kaiping as witness, raising our hands in toast and draining our cups.

Who'd have thought that the day would come so soon? Three months after the drinks at Worker's Stadium, both Kaiping and I were taken into custody [in October 2014]. Xia

Lin indeed defended me. A month later, he was also detained. In the time that followed I was bounced between three detention centers, while he was kept in the Beijing First Detention Center. A year later I was released on bail — but they kept him behind bars because he refused to supply a confession. Another year passed, and only now is he going to meet a verdict.

We've all paid the price we expected.

The price is bound to be exacted, given that we've chosen our stance toward this country since when we were young. Xia Lin made his choice in the flush of his youth, as part of the 1989 generation, choosing to go to Tiananmen Square, wearying his spirit in the struggle with his peers to improve this country. He again made his choice when he was a student at the Southwest University of Political Science and Law (西南政法学院), where he made an open vow never to be a lackey or collaborator with evil.

This he achieved. He never wavered from his course for 27 years. From Guizhou to Beijing, from a commercial lawyer to a human rights lawyer: the road of life he took became rockier and rockier, but more and more soul stirring.

As for the price of a life to be paid — Xia Lin, like me, is ready for it. He's much more awake than I to the reality of how the system reacts, and its brutality.

Our lives have been interwoven together, as if by fate, from our first meeting in Mao Haojian's (茅海建) course on modern Chinese history at Peking University. In 2004 after fellow students and I were surrounded on the Jingyuan Lawn on campus, where we protested [over the death of a female student], he came with law books and an attorney contract, walking around the lawn, always within reach. In 2008 during the Deng Yujiao case (邓玉娇案), he was in Badong County, Hubei, and I rushed there from Beijing to be a help to him.

In 2012, after I drove Chen Guangcheng to the American Embassy, Xia Lin sat in my study and combed through all the possible charges the authorities could resort to for reprisal, from "subversion of state power" to "illegal business operations." He analyzed and whittled through them one by one. Two years later, when I found myself in prison, all that probing became precious legal experience.

We all know the fates we'll come to assume in history. Both Xia Lin and myself, and so, so many of our colleagues, are all fated to be the stepping stones, the paving stones, for the age of the future. Accepting this humble place in history is our honor.

As for what lays ahead, we've not changed what has animated us from the beginning, and we won't.

Whether we're slandered or given heavy sentences — what surprise will it be in today's China? When I was first arrested, I repeated to myself, and to the authorities, over and over again: If I were to be sentenced, one day will be the same as a decade. With Xia Lin, who is so proud, it's the same.

The September 22 sentence might be, say, 11 years imprisonment, or it might be 2 years, but however many years it is, it will have had nothing to do with the law. This is our fate. We have no choice but to accept it.

Such is our world — so top up the goblet. On September 22 I'll be outside the court with wine, waiting for the outcome. But for Xia Lin, for myself, for the judge Yi Daqing (易大庆), for the 101 Special Investigation Team assigned to my and Xia Lin's case, this isn't the conclusion. It's just the beginning.

"GAGGING THE LAWYERS: CHINA'S CRACKDOWN ON HUMAN RIGHTS LAWYERS AND IMPLICATIONS FOR U.S.-CHINA RELATIONS"

JUNE 28, 2017

*Witness Biographies*

**Terence Halliday, Co-Director of the Center on Law and Globalization and Research Professor at the American Bar Foundation**

Terence Halliday is Co-Director, Center on Law and Globalization, and Research Professor, American Bar Foundation; Honorary Professor, School of Regulation and Global Governance, Australian National University; and Adjunct Professor of Sociology, Northwestern University. His most recent books are Criminal Justice in China (2016) and Global Lawmakers: How International Organizations Shape World Markets (2017). He has consulted with the World Bank and China's State Council Office on Restructuring the Economic System and has written extensively on China's corporate bankruptcy law. He leads a research team on domestic and international mobilization for basic legal freedoms in China.

**Dr. Teng Biao, Chinese Human Rights Lawyer, Visiting Scholar at the Institute for Advanced Study, Co-Founder of the Open Constitution Initiative and the China Human Rights Accountability Center**

Dr. Teng Biao is a well-known human rights lawyer, a visiting scholar at the Institute for Advanced Study, and co-founder of both the Open Constitution Initiative and China Human Rights Accountability Center. Dr. Teng holds a Ph.D. from Peking University Law School and has been a visiting scholar at Yale Law School. His research interests are in human rights, judicial systems, constitutionalism, and social movements. As a human rights lawyer, Dr. Teng is a promoter of the Rights Defense Movement and a co-initiator of the New Citizens' Movement in China. In 2003, he was one of the "Three Doctors of Law" who submitted a petition to the National People's Congress about the unconstitutional detentions of internal migrants. Since then, Dr. Teng has provided counsel in numerous other human rights cases, including those of Chen Guangcheng, rights defender Hu Jia, and many other religious freedom and death penalty cases.

**Xia Chongyu, Son of imprisoned human rights lawyer Xia Lin and Student at Liberty University**

Xia Chongyu is a student at Liberty University. As of June 2017, a petition he initiated urging the Chinese government to release his father, had generated more than 90,000 signatures. His father, Xia Lin, is a human rights lawyer with more than 20 years' experience working on public interest and politically sensitive cases. His clients have included prominent artist Ai Weiwei; public interest lawyer Pu Zhiqiang; and Guo Yushan, a think tank founder who helped Chen Guangcheng escape to the United States Embassy Beijing, among others. The Beijing No. 2 Intermediate People's Court convicted Xia of "fraud" in September 2016 and sentenced him to 12 years in prison. The sentence was reduced to 10 years on appeal in April 2017.

**Xiaorong Li, Independent scholar and former researcher at the Institute for Philosophy and Public Policy at the University of Maryland**

Xiaorong Li is an independent scholar and former researcher at the Institute for Philosophy and Public Policy at the University of Maryland focusing on ethics and theories of human rights and democracy, with a regional focus on Asia/China. She is the author of the book Ethics, Human Rights, and Culture and has written numerous articles on human rights, international justice, and women's rights, including on China's horrific population control policies. Her writing has been published in the Yale Journal of Law & Feminism and NYR Daily, the blog of The New York Review of Books. She is also one of the founding members of several non-government human rights organizations.

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