



FREEDOM NOW

Honorary Chair
The Most Reverend Desmond M. Tutu

Submission to the Conservative Party Human Rights Commission Inquiry into the Human Rights Situation in China from 2013-2016

Introduction

Freedom Now is pleased to take this opportunity to provide the Conservative Party Human Rights Commission with evidence regarding the continued detention of Dr. Liu Xiaobo. Although Dr. Liu was arrested in 2008, his wrongful detention continues. In the past three years, the administration of Xi Jinping has not only denied Dr. Liu's repeated requests for early release, but also has initiated a campaign of harassment and intimidation against his family that has resulted in additional detentions.

Dr. Liu Xiaobo

Dr. Liu Xiaobo is one of China's most prominent dissidents. Before his arrest in 2008, he was a prolific essayist and teacher. He is best known for leading an initiative called *Charter 08*, a manifesto that called for respect for fundamental human rights and a peaceful transition to multi-party democracy in China.¹

Dr. Liu was arrested at his home on December 8, 2008 by police officers of the Beijing Public Security Bureau.² The arrest came two days before the 60th anniversary of the adoption of the Universal Declaration of Human Rights and the official release of *Charter 08*. The police officers cited no reasons for making the arrest, although an unspecified warrant was provided.³ The officers searched his home and seized computers and other materials.⁴

Authorities held Dr. Liu *incommunicado* from December 8, 2008 to December 31, 2008, and denied him access to family and legal counsel.⁵ He was then held in detention in an unknown location for six-months.⁶ His wife, Liu Xia, was permitted two visits with her husband at the Xiaotangshan Conference Centre after December 31, 2008,⁷ otherwise he was held in solitary confinement until June 23, 2009; the day that state news agencies announced that he had been formally arrested.⁸

On December 10, 2009, the Beijing Municipal People's Procuratorate Branch No. 1 submitted the indictment against Dr. Liu.⁹ The prosecution asserted that Dr. Liu disregarded state laws and by means of rumor mongering and slander and incited subversion of state power and the overthrow of the socialist system in violation of Article 105(2) of the Criminal Law of the People's Republic of China. It specifically relied on his writings – and *Charter 08* especially – as proof of his guilt.¹⁰

¹ *China's Liu Xiaobo Wins Nobel Prize*, Washington Post (Oct. 8, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/08/AR2010100801502.html>.

² *China Detains Dissidents Ahead of Human Rights Day*, Reuters (Dec. 9, 2010), <http://www.reuters.com/article/idUSTRE4B839720081209>.

³ *Contender for Nobel Prize in Chinese Prison*, Associated Press (Oct. 2, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/10/02/AR2010100201667.html>.

⁴ *Liu Xiaobo*, PEN, <http://www.pen.org/defending-writers/liu-xiaobo>

⁵ *Id.*

⁶ *Id.*

⁷ *China's Top Dissident Arrested for Subversion*, Reuters (Jun. 24, 2009), <http://www.reuters.com/article/us-china-dissident-idUSTRE55N0F020090624>

⁸ Defense Statement of the Second Instance, (translated by Human Rights In China), <http://www.hrichina.org/en/content/3210>.

⁹ *Liu Xiaobo: A Chronology of Activism*, Human Rights in China, *supra* note 9.

¹⁰ Criminal Indictment (2009) No. 247, (translated by Human Rights in China) <http://www.hrichina.org/en/content/3205>.

On December 23, 2009, Dr. Liu was prosecuted before the Beijing Municipal No. 1 Intermediate People's Court. A source reported that authorities significantly limited access to the proceeding;¹¹ journalists, foreign diplomatic representatives, and all but two members of Dr. Liu's family, were prevented from entering the courthouse for the trial.¹²

The proceedings lasted only two hours¹³ and the court limited the defense to 14 minutes.¹⁴ On December 25, 2009, Dr. Liu was sentenced to 11 years in prison and two years' loss of political rights.¹⁵

On February 9, 2010, the Beijing Municipal High People's Court rejected his appeal.¹⁶ An extraordinary appeal for a re-trial was submitted in November 2013.¹⁷ Dr. Liu submitted an application for early parole in June 2014, but the application was denied. This information was not widely known until August 2015 when family members were allowed to visit Dr. Liu in prison.¹⁸

In response to a petition filed by Freedom Now,¹⁹ the UN Working Group on Arbitrary Detention in Opinion No. 15/2011 found Dr. Liu's detention to be arbitrary under international law. The Chinese government's response to the petition had claimed that Dr. Liu was convicted according to the criminal code offences for inciting subversion of state power, and not for the promotion or protection of human rights. The government further claimed that the courts strictly followed domestic criminal procedure law, allowing Dr. Liu and his lawyer to present a defense. Despite these claims, however, the Working Group held that the Chinese government had "not shown in this case a justification for interference with Dr. Liu's political free speech." It also found that the Chinese government violated Articles 9, 10, and 19 of the Universal Declaration of Human Rights and called on the government to immediately release and adequately compensate Dr. Liu.²⁰

Human Rights Violations between 2013 and 2016

Acts of Retribution

The Chinese government continues to persecute members of Dr. Liu's family for his activities. In January 2013, Liu Hui, Dr. Liu's brother-in-law, was arrested for fraud. He was officially charged in March 2013. It was the second time Liu Hui had been arrested for the crime; he spent six months in detention in 2012.²¹ He was sentenced to 11 years in prison in June 2013, hours after President Xi and President Barack Obama completed an informal summit in California.²² In August 2013, a court rejected his appeal.²³

¹¹ *China: Liu Xiaobo's Trial a Travesty of Justice*, Human Rights Watch (Dec. 21, 2009), <http://www.hrw.org/en/news/2009/12/21/china-liu-xiaobo-s-trial-travesty-justice>.

¹² *China Decries Western "Meddling" in Dissident Trial*, Reuter (Dec. 24, 2009), <http://www.reuters.com/article/idUSTRE5BN0SZ20091224>.

¹³ *Nobel Peace Prize Given to Jailed Chinese Dissident*, New York Times (Oct. 8, 2010), <http://www.nytimes.com/2010/10/09/world/09nobel.html?scp=5&sq=liu%20xiaobo&st=cse>.

¹⁴ *China Jails Dissident Liu Xiaobo for 11 Years*, Reuters (Dec. 25, 2009), <http://www.reuters.com/article/idUSTRE5BO02320091226>.

¹⁵ *Liu Xiaobo: A Chronology of Activism*, Human Rights in China, *supra* note 9.

¹⁶ Beijing Municipal High People's Court Appeal Decision (translated by Human Rights In China), <http://www.hrchina.org/en/content/3211>.

¹⁷ *Wife of jailed Chinese Nobel Laureate appeals for his retrial*, Reuters (Nov. 19, 2013), <http://www.reuters.com/article/us-china-dissident-idUSBRE9AI0JD20131119>

¹⁸ *China Turns Down Parole Bid From Jailed Nobel Peace Laurate*, Radio Free Asia (Aug. 13, 2015), <http://www.rfa.org/english/news/china/parole-08132015111306.html>

¹⁹ *Petition to the UN Working Group on Arbitrary Detention*, Freedom Now (Nov. 4, 2010), <http://www.freedom-now.org/wp-content/uploads/2015/02/Press-Release-and-Petitions-for-Liu-Xiaobo-and-Liu-Xia-to-UNWGAD1.pdf>

²⁰ *Liu Xiaobo v. China*, UN Working Group on Arbitrary Detention, Opinion 15/2011 (Feb. 3, 2011), <http://www.freedom-now.org/wp-content/uploads/2015/02/Press-Release-and-Opinions-Liu-Xiaobo-Liu-Xia-8-1-11.pdf>

²¹ *Liu Xiaobo's brother-in-law arrested in China*, Reuters (March 29, 2013), <http://www.telegraph.co.uk/news/worldnews/asia/china/9961671/Liu-Xiaobos-brother-in-law-arrested-in-China.html>

²² *Kin of jailed Chinese Nobel winner Liu Xiaobo sentenced to 11 years in prison*, Reuters (June 9, 2013),

http://worldnews.nbcnews.com/_news/2013/06/09/18860961-kin-of-jailed-chinese-nobel-winner-liu-xiaobo-sentenced-to-11-years-in-prison?lite

²³ *China rejects appeal by Nobel laureate's brother-in-law*, Reuters (Aug. 15, 2013), <http://articles.chicagotribune.com/2013-08->

Liu Xia

Liu Xia, Dr. Liu's wife, has been under *de facto* house arrest since her husband was awarded the Nobel Peace Prize at the end of 2010. She is under heavy guard and largely kept *incommunicado*. In 2013, a friend reported that Liu Xia was close to "mental collapse" because of restrictions on her movements.²⁴

She suffers from serious health conditions and has been repeatedly denied proper medical care. In January 2014, she was rushed to the hospital after suffering myocardial ischemia or lack of blood flow to the heart. She was discharged from the hospital after only one day. She was again rushed to the hospital under heavy guard in February 2014, but again discharged after a single day and not notified of her test results.²⁵ Her family and friends as well as her lawyer were not immediately notified of her hospital visits.

In March 2015, the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Juan E. Méndez, concluded that the Chinese government violated Liu Xia's rights under the UN Convention Against Torture by denying her access to medical treatment.²⁶

In response to a petition filed by Freedom Now,²⁷ the UN Working Group on Arbitrary Detention in Opinion No. 16/2011 found Liu Xia's detention to be arbitrary under international law. The government's reply denied any legal action had been taken against Liu Xia. The Working Group held that the restrictions placed on Liu Xia amount to detention. It also found that the Chinese government violated Articles 9, 10, and 19 of the Universal Declaration of Human Rights and called on the government to immediately release and adequately compensate Liu Xia.²⁸

Policy Recommendations

- Request the Chinese government provide continued updates on the condition and health of Dr. Liu and Liu Xia
- Facilitate travel abroad for Liu Xia so that she may seek proper medical treatment
- Raise the continued detention of Dr. Liu and the house arrest of Liu Xia in all official meetings with Chinese officials
- Add the case of Dr. Liu as a standing agenda item to the UK-China Human Rights Dialogue
- Raise the case of Dr. Liu in international forums, including the UN Human Rights Council and the European Union

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²⁴ *Jailed Chinese Nobel Winner Liu Xiaobo to Appeal Sentence*, Radio Free Asia (Nov. 18, 2013), <http://www.rfa.org/english/news/china/liu-xiaobo-11182013121554.html>

²⁵ *Heart condition concern for Chinese dissident*, The Telegraph (Feb. 20, 2014), <http://www.telegraph.co.uk/news/worldnews/asia/china/10645981/Heart-condition-concern-for-Chinese-dissident.html>

²⁶ *Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Addendum – Observations on Communications*, A/HRC/28/68/Add.1 (March 6, 2015) at paragraph 92.

²⁷ *Petition to the UN Working Group on Arbitrary Detention*, Freedom Now (Nov. 4, 2010), <http://www.freedom-now.org/wp-content/uploads/2015/02/Press-Release-and-Petitions-for-Liu-Xiaobo-and-Liu-Xia-to-UNWGAD1.pdf>

²⁸ *Liu Xia v. China*, UN Working Group on Arbitrary Detention, Opinion 16/2011 (Feb. 8, 2011), <http://www.freedom-now.org/wp-content/uploads/2015/02/Press-Release-and-Opinions-Liu-Xiaobo-Liu-Xia-8-1-11.pdf>