



TheNewsLens 關鍵評論

May 8, 2017

Interview with Jared Genser – On Trump, Venezuela, and the Riddle of Freeing a Taiwanese Activist from China

By Edward White

Lee Ching-yu (李淨瑜), wife of the Taiwanese human rights activist detained in China, plans to leave Taipei in the coming weeks for the United States and Europe in a bid to lobby foreign governments to press Beijing for her husband's release.

Lee Ming-che (李明哲), 42, has not been heard from after flying from Taipei to Macau and into Guangdong on March 19. China, which has confirmed he was detained by a branch of the state security police for “involvement in a threat to national security,” has not detailed where he is or the charges he faces.

While human rights groups often criticize the U.S., for taking a soft stance on China's human rights abuses, one international human rights lawyer with extensive experience representing high-profile Chinese dissidents appears to have a fresh sense of optimism thanks to some early moves made by U.S. President Donald Trump.

Jared Genser's current clients include imprisoned Chinese dissident and Nobel Peace Prize Laureate Liu Xiaobo (劉曉波) and Venezuelan opposition leader Leopoldo López.

In an interview with *The News Lens* from Washington D.C., Genser acknowledges his views may seem “totally counterintuitive,” but says President Trump has already, in some cases, been “dramatically better” than President Barack Obama on human rights issues.

Genser points Trump's Feb. 15 meeting with López's wife, Lilian Tintori, at the White House — the President later said via Twitter that Venezuela should let Lopez “out of prison immediately.”

“That sent an unmistakable, strong and really extraordinary message that caused shockwaves in Latin America,” Genser says. “Eight years of working the Obama administration on human rights issues, I was not able to get a single spouse or family member of my highest profile political prisoners to see the President of the United States.”

Genser sees last month's U.S. bombing of the Syrian airbase thought to have been the source of a chemical weapons attack as an “unmistakable and unequivocal stance on human rights.”

And he sees further reason for optimism in Matt Pottinger, a former Beijing-based correspondent and Marine, who has responsibility for Asian affairs in the U.S. National Security Council.

“He was physically manhandled by the Chinese security forces,” Genser says. “One can deduce that the top Asia advisor to the President and the National Security Council is well aware of the dark underbelly of the Chinese government and the way in which it doesn't just go after domestic dissenters, but it will even go after foreigners who are journalists or are otherwise causing problems for the Chinese government.”

The lawyer, who describes himself as “a human-rights partisan and not a political one,” does not go as far to say that President Trump has taken a principled position to advance human rights as part of his foreign policy.

Nor does he want to be seen generalizing about either the Trump or Obama administrations. In an op-ed in *The Washington Post* in April 2015, Genser praised President Obama for the creation of the Atrocities Prevention Board — he saw it as a key move to enable faster and better-coordinated responses to issues like ethnic conflicts in Africa. And he slammed President Trump's decision in January to ban citizens from Muslim-majority countries entering the United States — the policy, he said was based on incorrect assumptions about terrorism and immigration.

“What I am seeing is a number of data points that are showing up; some of them are dramatically better than President Obama, some of them are more of the same,” Genser says of Trump's human rights record so-far.

Starting from a low base: The U.S. approach to China human rights

Despite Obama's Nobel Peace Prize in 2009 and the belief that human rights concerns were raised privately during state visits between the U.S. and China, Genser believes the Obama

administration lacked teeth in pressuring China on the issue.

In late 2012, a large group of Nobel laureates sent a letter to Xi Jinping (习近平), China's president-in-waiting at the time, calling for Liu Xiaobo's release. As Genser says, "Do you think the Chinese noticed the 134 laureates that on the letter, or the one [Obama] who didn't sign?"

Likewise, when Liu's supporters passed a bill through the Senate that would have changed the street name in front of the Chinese embassy in Washington to Liu Xiaobo Plaza in 2016, "Obama threatened publicly to veto that bill," he says.

Obama, Genser says, relegated China human rights to be handled almost exclusively by the State Department, which meant that little was achieved outside of low-level activities like monitoring and reporting.

"Honestly, I don't think President Trump could be any worse than President Obama on China human rights."

As Human Rights Watch's China Director Sophie Richardson wrote in September 2016, many governments privately lament "a lack of leverage" when it comes to Beijing's human rights abuses.

Genser, who has been working on Chinese human rights issues from the late-1990s, acknowledges that taking on China human rights cases is dramatically harder today than it was a decade ago, and "infinitely" harder than it was 20 years ago.

However, the unwillingness of countries like the U.S., the United Kingdom and France to speak out publicly about China's human rights abuses has provided "a total license to Xi Jinping" to not only keep Liu Xiaobo behind bars but also detain his wife under house arrest, Liu Xia (劉霞), without trial for more than seven years.

"The worst part of all of this is that Chinese security officials use those cases as examples to other dissidents in China [and say] 'If we can do this to a Nobel Peace Prize laureate and his wife, with total impunity and without any consequence, imagine how someone who no one has heard of, such as yourself, imagine what we can do to you.'"

Talking tactics

While the Taiwan government has maintained that it is working behind the scenes to secure Lee Ming-che's release, Lee's wife has been outspoken against China. She has rejected communication from her husband while he remains "kidnapped," and refused to accept help

from a Chinese government fixer, nor capitulate to Beijing's calls for her silence.

There has been debate in Taipei, however, as to whether speaking out against Beijing at this time is the most prudent course of action to expedite Lee's release.

Genser's past clients include former Czech Republic President Václav Havel and Nobel Peace Prize Laureates Aung San Suu Kyi, Desmond Tutu, and Elie Wiesel. He describes himself as "tactically neutral" and says "what makes sense in any given case at any given moment in time changes."

"In some cases, being public and loud can be very beneficial. In other cases, it can be counterproductive," he says.

Asked what might be the best approach for Lee Ming-che's supporters to take, Genser, who has no close knowledge of the case, says the risk is always going to be greater when "going public."

"If there was an option for private diplomacy to work, you definitely do want to exhaust that before you take a stronger and harder-hitting public posture," he says.

However, he is quick to note that China, like other authoritarian governments, will always "dangle out hope" in front of the families to persuade them to stop them speaking out. This leads to families often engaging in "wishful thinking."

"They want to believe that what they're hearing, or that the advice that they are getting from these sources is being offered truthfully and genuinely."

For their part, the Chinese authorities want to have the maximum amount of time with the person they've detained to gain information about dissident networks, "so that they can target other people," Genser says.

"Even when they have decided to lock someone up and throw away the key, China and the [Ministry of State Security and Ministry of Public Security] are very smart; they know that if they were to ever convey that message to the family or to the detainee, then immediately there would be a public-facing attack on them."

So, how much time should a family or a dissident's supporters allow before taking a more public approach?

Genser says if a family is getting information that there are conversations underway and that the government was able to engage in meaningful conversations, and there appeared to be a

“pathway out of this,” he would want to allow more time. In Lee's case, that could mean several more months.

He notes that another, less confrontational, approach to engage with the Chinese government is to speak about the case not in terms of what Lee may have been “doing,” but rather as a case where the Chinese government has certain obligations to fill under its own constitution laws and international treaties.

“The question really is, whether China has an interest in finding a face-saving way out of this case, or whether they have made the decision that they are going to detain him regardless of the consequences,” Genser says.

Taking the fight offshore

Notwithstanding diplomatic back-channeling by Taiwanese officials, Lee Ching-yu will soon travel offshore to make the case that her husband's disappearance is symptomatic of the continued erosion of human rights in China. She says she will continue to speak out, even if it threatens his release.

“History proves that when facing an evil ruler, there is only one position we can take: the insubordinate one,” she told *The News Lens* last month. “I believe that if it were me that was missing in China, that my husband would have done the exact same thing.”

But what are the chances the international community will take an interest in her husband's case? And if it does, will China care?

Genser says that in his experience the impact of political pressure from Washington or any quarter “depends a lot on who is doing the criticizing.”

“China does not like to be criticized, especially by the United Nations,” he says, pointing to cases he takes the U.N. Working Group on Arbitrary Detention. “They generally show up and vigorously fight those claims. They don't like to lose a case there.”

Simply lobbying “activist” members of Congress to put out a statement is likely to “just bounce off China,” but there are times when such people are crucial in raising the profile of political prisoners and keeping the pressure on China.

“When China has given me no option, and I'm literally trying to save the lives of my long-imprisoned clients, and it is clear [China] does not want to engage in any way, all I can do is try and exert a political and public relations cost for the ongoing detention of my clients,” he says.

Playing the Taiwan card

Lee's detainment comes amid a period of weak relations across the Taiwan Strait — since Taiwan's Democratic Progressive Party (DPP) took office in May 2016, Beijing has cut off official communication with Taipei. Taiwan President Tsai Ing-wen (蔡英文) has been criticized for refusing to sharply criticize Beijing over Lee's case, though the government maintains it is doing everything in its power to ensure his safe return to Taiwan.

In an interview with Reuters on April 27, President Tsai said Lee's case was "important to the Taiwanese people" and could be "very harmful" to cross-Strait relations.

"If this issue is not properly dealt with by mainland China, the Taiwanese people will feel uneasy. This is because so many people travel across [the Taiwan Strait] every day," she said.

Genser likewise sees the "very different" Taiwan angle at play in the Lee Ming-che case.

"If the Taiwanese people were to stand up to the [Taiwan] government and press for more robust engagement, the government of Taiwan's hand would be strengthened."

Over time, he suggests, Beijing may not see the ascent of such a view in Taiwan as positive for the "détente between China and Taiwan."

"To me, that is going to be more compelling [to Beijing] than anything the U.N. can do let alone anything members of Congress could do from a distance," he says.

Taiwan-based non-governmental organizations are planning an event in Taipei's Liberty Square on May 19 — the date will mark two months since Lee went missing and provide an opportunity for Taiwanese to publicly show their support for Lee.