

Pressing Engagement: Uneven Human Rights Progress in China, Modest Successes of American Policy, and the Absence of Better Options

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China's Uneven Human Rights Progress and the Problem of Causation

Human rights conditions in the PRC remain inadequate, but they have improved greatly, if unevenly, over nearly three decades during which the United States has pursued a policy of engagement. Improvement has been greatest in the last decade and a half when the U.S.'s policy of engagement has become more robust.

Gains in economic and social rights, which China emphasizes, have been significant. Almost thirty years of nearly double-digit growth has created the means. Although inequality has soared, new wealth has been shared sufficiently widely that Chinese enjoy a far higher standard of living than a generation or a decade ago. Hundreds of millions have risen from poverty that precluded basic economic rights. Reforms to economic laws and policies have created meaningful if incomplete property rights. Economic and political reforms have greatly increased mobility, replacing the near-serfdom of the *hukou* system established under Mao.

Political freedoms have increased although they remain limited. The regime no longer requires citizens to engage in political movements or voice support for official ideology. Although still facing severe restrictions, domestic media are freer to report government malfeasance. Access to foreign media has greatly increased. Tolerance for religion has grown. Tens of millions of Chinese participate in state-approved institutions and underground "house churches" and similar organizations that survive despite crackdowns.

Although the law on the books and its implementation remain inadequate, reform-era laws are far more compatible with international human rights norms than was true during the Mao and Deng eras. In 1979, the PRC's first systematic substantive criminal law and criminal procedure law promised to end tyrannical and chaotic imposition of punishment under color of political authority. Two decades later, these laws' successors removed provisions that were most objectionable on human rights grounds: politically charged "counter-revolutionary" crime (although substituting disturbingly similar crimes of endangering state security and disturbing public order), lack of a presumption of innocence, permissibility of punishment by analogy, and limited access to counsel, opportunity to confront evidence and other due process protections (although the 1990s changes promised only limited improvement on these latter matters). Accession to the U.N. Covenant entails further reforms. Formally non-criminal but liberty-depriving "reeducation through labor" and "shelter and investigation" have undergone substantial if incompletely implemented reforms, with the former restricted to shorter terms and subjected to judicial review and the latter officially banned.

Ordinary Chinese now bring, and often win, lawsuits challenging state actions, participate in nascent public hearings on laws and regulations, and join nongovernmental organizations.

China now has media and academic outlets for regime critics ranging from the pro-liberalization “right” such as Cao Siyuan (a policy entrepreneur who presses for constitutionalism and human rights) or Li Jianqiang (a lawyer, essayist and leader in the *weiquan* movement that seeks enforcement of legal rights as a means to social change) to the “new leftist” Wang Hui (editor of *Dushu* and critic of China’s rising inequality) or Gong Xiantian (the Peking University professor whose critique of the “anti-socialist” property law helped delay the legislation’s passage until March 2007).

Although they have faced harassment and threats to their livelihoods and freedom, gadflies and mavericks dot the Chinese landscape: AIDS activists (such as Gao Yaojie, who was prohibited and then grudgingly allowed to travel abroad to receive awards), whistleblowers (such as People’s Liberation Army doctor Jiang Yanyong who exposed the SARS cover-up), criminal defense lawyers taking politically charged cases (such as Mo Shaoping and Gao Zhisheng), lawyer-activists representing expropriated property rights-holders or victims of coerced sterilization (such as Zhu Jiuhui and Chen Guancheng), and policy-intellectuals pressing for human rights, constitutionalism, civil society and economic reform (such as Yu Keping and Cao Siyuan). While the drama here pales in comparison to Democracy Wall in 1978 and Tiananmen in 1989, this sustained, multifaceted, mutually independent, and partially tolerated set of reformers and critics was unimaginable three decades ago and nonexistent through much of the 1990s.

Some areas, including political speech, organized political participation and religion, have lagged. The regime still tolerates no meaningful political party other than the Communist Party. Organized dissent such as the Tiananmen Movement, fledgling autonomous political organizations such as the China Democracy Party, and less conventional groups with political agendas such as Falun Gong have been quashed. Harsh sanctions have befallen leaders and, sometimes, followers in the “incidents” (now numbering around 80,000 in official counts) of protests by workers who have been laid off by declining state-owned enterprises, peasants whose land rights have been expropriated by local governments collaborating with developers, and others. Democratic elections reach only the lowest-level committees in the countryside and are often manipulated.

Unauthorized religious groups (such as “house churches”) encounter intermittent suppression and “cults” (such as Falun Gong) face systematic repression. Although brutal methods and strict implementation of the so-called “single child family” policy have waned, restrictions on reproductive freedoms persist, as do coercive means to enforce them. Criminal justice and not-formally-criminal sanctions remain deeply troubling, with trial processes remaining cursory and sometimes secretive (especially in politically charged cases), multi-year incarcerations still dispensed without court process, torture continuing despite official prohibitions, and executions in China outnumbering those in the rest of the world (and for acts that would not be capital offenses in other

death penalty jurisdictions but that fall among China's nearly seventy crimes punishable by death).

Human rights progress also has faced reversals. The most striking came after Tiananmen Movement of 1989, with imprisonments and executions imposed after perfunctory procedures, and silencing of officials, journalists, academics and others who had sympathized with the movement. Earlier, more modest retrenchments came with drives against crime (bringing harsher penalties and weakened procedural protections, especially for acts threatening social order), "spiritual pollution" (targeting liberal ideas that came with the first market-oriented reforms and opening to the outside world), ideas of "alienation" under socialism and Marxist "humanism" (quashing reform-minded intellectuals within the Party), and "bourgeois liberalization" (ending a period of relative political openness and toppling designated successor Hu Yaobang whose death in 1989 was the catalyst for the Tiananmen Demonstrations).

"Strike hard" campaigns and anti-corruption drives began in the middle 1990s and have increased criminal sanctions and undercut procedural protections. In the 1990s and 2000s, the most notable setback has been the crackdown on Falun Gong, declared an "evil cult" and the most severe challenge to the Party and state since 1989. Its adherents have faced detention and abuse, some of it fatal. Periodic campaigns targeting "house churches" have limited religious liberties of adherents to more mainstream faiths.

In some areas, the Hu Jintao period has brought troubling turns. Intellectuals report a chilled atmosphere for heterodox ideas for political and legal reform. Long in decline, restrictions on media—especially "new media"—recently have increased. Bold journals such as *Bingdian* and *Nanfang Zhoumou* have faced closure, firings or criticism for their temerity in exposing inconvenient truths or offering critical views. Among conservative elements in the top elite, arguments against greater legality have resurfaced, including calls for limits to the independence of the legal system and warnings that foreign and hostile forces—including those with human rights agendas—are using China's legal institutions to undermine the system. Although it did produce greater transparency in government, the SARS crisis triggered regime reactions that were not human rights-friendly, including mandating severe penalties for those charged with spreading false information. Despite Hu-era "populism," the social safety net has continued to fray. Rising concern about unrest has brought repression and prosecution of those involved in protests and scrutiny of civil society organizations.

Nonetheless, overall progress in Chinese human rights has marked the post-Mao Reform Era, and has coincided with the American policy of engagement that accompanied normalization of U.S.-PRC relations in 1979. The Post-Tiananmen and "second wave" Reform Era reacceleration of improvement in human rights conditions corresponds to deepening and expansion of U.S. engagement during the Clinton and George W. Bush presidencies. This has reflected growth of government-to-government interactions, including on human rights-related issues, that attended a steep rise in trade (which grew from near-zero levels in 1979 to over \$30 billion in 1992 to approximately \$300 billion today) and investment (which now includes 20,000 U.S.-invested enterprises

and around \$60 billion in cumulative investment, much of it since 1992). Increased engagement also included a new emphasis on human rights as the shock of the Tiananmen Incident and the end of the Cold War removed “veils” or “lenses” that had made human rights peripheral to Washington’s post-normalization China (if not broader foreign) policy.

Correlation, of course, is not causation. Many of the factors that have contributed to human rights gains are not products of U.S. policy. U.S. policy has only sometimes—and often only indirectly—affected them. Counterfactuals also obscure causation. It is impossible to show that human rights conditions in China would not have been better if U.S. policy had been tougher. Nonetheless, much evidence supports the claim that engagement has worked better than a much harder line would have.

Engagement: Two “Macro” Dimensions

At the beginning of the 1990s, China shifted its approach toward the international human rights regime from rejection to partial engagement. Official PRC sources began to concede the universality of human rights, which is generally understood to include customary international law embodied in the Universal Declaration of Human Rights and other core U.N. documents. China has acceded to the International Covenant on Economic, Social and Cultural Rights and has signed, and promised soon to ratify, the International Covenant on Civil and Political Rights. China issues human rights “white papers” and other reports that seek to explain and justify Chinese human rights conditions and practices. Chinese sources routinely engage human rights critiques on issues including treatment of defendants in politicized criminal trials, suppression of Falun Gong, conditions in Chinese prisons and so on.

We should not overstate the significance of this shift or the role of U.S. policies of engagement in producing it. On the latter point, domestic Chinese factors and the relatively tough—if short-lived—line that the U.S. and others took after Tiananmen deserve much credit for the change. On the former point, Beijing’s shift has been partly tactical. China’s rulers understand that formal engagement and in-principle acceptance of the international human rights regime can blunt foreign criticism without requiring major changes in behavior. Even the shift in theory has been limited, with PRC sources still insisting that universal human rights’ concrete meaning varies by local circumstances and that state sovereignty is a precondition to providing human rights.

Nonetheless, China’s partial engagement has opened channels for modest influence and moderate pressure. It has allowed U.S. policy to move beyond arguments about which human rights “count” and to press China on its behavior. In lawyer’s terms (and there is much lawyerliness in international human rights), we no longer argue about the law; we argue instead about the facts, and sometimes the law’s application to facts. China’s formal shift also means that the PRC finds itself bound (or considers it too costly to claim not to be bound) to justify and explain its actions in terms acceptable to the outside world. Because such attempted justifications and explanations are politically costly, the prospect of having to make them exerts pressure to alter behavior.

More broadly, a foundational reform-era policy orientation—“opening to the outside world”—has also meant engaging with it. The U.S. has been China’s single most important partner, being a leading source of foreign investment, export markets, technology transfer, and models for economic legislation.

“Engagement” in this broad economic sense has been favorable for human rights. It has contributed greatly to China’s sustained rapid growth and accumulation of economic assets outside state control. As venerable social science theories maintain, this rise in material security and status, the expansion of areas of life beyond the state’s control, and the growth of property and autonomy interests help to create constituencies for—and in all but the most extreme authoritarian systems, genuine if ambivalent regime stakes in—individual rights and limits on government.

China’s international engagement also has allowed “flies” (in the telling phrase once used by conservative critics) to enter through the “open door.” These “foreign” ideas include many that have implications for human rights. They have flowed through diverse channels, many of which are aspects of U.S. engagement policy.

Engagement at Work: Issues and Means

Within this broad context, concrete U.S. activities reveal patterns of what works relatively well and what does not. Potential for influence is greater where the U.S. “agenda” appears least “political,” enjoys prestige among Chinese audiences, provides a feasible focus for sustained and moderate U.S. pressure, or has significant Chinese partners. These points are partly about “issues” (what human rights questions are involved?) and partly about “means” (is an effort entangled with U.S. government actions and how “offensive” does China find it?).

First, efforts to address core political rights have had relatively good prospects when they have been “small bore,” focusing on individual prisoners or pursuing dialogue that seeks marginal changes on civil and political rights. Examples of the former include “lists” of political detainees that have been pressed by visiting Assistant Secretaries of State and private actors such as human rights “retail” entrepreneur John Kamm and his MacArthur Award-winning Duihua Foundation. At times, this approach has linked prisoner releases or other concessions with something China wants. Examples include the U.S.’s resumption of the bilateral human rights dialogue on the eve of the 2002 Crawford summit between Jiang Zemin and George W. Bush, or the U.S.’s renewal of China’s MFN privileges in the 1990s.

This approach understandably draws criticism that it allows China to evade accountability on human rights by the costless gesture of releasing—often into exile—dissidents who already have been made politically ineffective and whose punishment has been sufficient for general deterrence. Nonetheless, freeing individuals is significant. And years of engagement of this sort may deserve some credit for a broader shift. To choose a striking (if not case-proving) anecdote, Deng Xiaoping had few concerns about

jailing Wei Jingsheng in 1979 and reportedly invoked Wei's fate a decade later to show that China need not fear consequences of Western criticism over Tiananmen. Yet, in the 1990s, Wei was released amid revived international engagement and the regime's heightened quest for international acceptance, including in the oddly important form of hosting the Olympics.

Recent years also have seen the relatively near-term release—or non-detention—of some regime critics or facilitators of criticism who have had the connections (often through status as naturalized U.S. citizens, U.S. residents, or U.S. employee) or overseas profile (through employment or publications) that have made them the focus of U.S. government interest (directly or through U.S. organizations who have lobbied the U.S. government). Examples include Hong Kong-based scholar and alleged spy Li Shaomin and “rights protection” lawyer and regime critic Gao Zhisheng (although New York Times researcher and alleged spy Zhao Yan, sentenced to three years for “corruption,” underscores the limits here). Other, more speculative but likely real examples include those who have not been detained but would have been absent expectations that the U.S. government, along with U.S. media, would take up their cases.

Examples of the “ongoing dialogue” approach include the work of human rights officers at the U.S. embassy in Beijing (who routinely engage PRC interlocutors across a range of human rights issues and practices) and the discourse over human rights that is part of the broader, generally non-confrontational bilateral diplomatic relationship. Here too, proof is elusive but anecdotal evidence is positive. Participants and observers report progress, including getting the Chinese side to engage human rights norms, to argue (albeit recalcitrantly) within the terms of international human rights discourse and to comprehend the seriousness of the U.S. commitment to human rights.

Such approaches have been promising partly because they eschew high-stakes politics and employ moderate pressure, at least in comparison to more “wholesale” and “confrontational” approaches that would press for sweeping and sudden improvement in civil and political rights. Efforts more in that vein elicit prickly responses, including denunciation of U.S. strategies of “peaceful evolution” or improper “interference” in China's internal affairs.

Second, the U.S. government has undertaken or funded, and U.S.-based NGOs have pursued or supported, projects that cooperate with Chinese counterparts and agencies to build civil society organizations or improve institutions and processes of governance that have relatively close links to promoting human rights, particularly civil and political rights. A few of the foci suggest the broader pattern: developing legal aid programs and clinics, training judges, providing support and monitoring for village elections, advising on legislative drafting techniques and projects (including an administrative procedure law mandating more regular and open lawmaking procedures), and advising on mechanisms for public participation in law- and rule-making. Participating American entities are similarly diverse, ranging from government organs (such as the State Department and the federal judiciary) to foundations (such as the Ford and Asia Foundations) and universities to the International Republican Institute and the

National Democratic Institute. State Department “rule of law” funds for these types of projects have increased many-fold since their beginnings in the late 1990s (rooted in an initiative from a Clinton-Jiang summit) to their current multi-million dollar level. Other government and private funding has expanded significantly too.

Such programs are part of, or depend upon, the broader U.S. policy of engagement and its contribution to their ability to find Chinese partners and win acceptance by the Chinese regime as relatively apolitical or technical. To be sure, views among PRC authorities that these programs will not have undesired “spillover” effects may be overly sanguine. But that may be a welcome result where the goal is promoting human rights, as well as a result favored by some Chinese participants in, or beneficiaries of, these programs.

Third, U.S. public and private sector projects have cooperated with Chinese state and state-linked partners to develop economic regulation (and supporting structures and processes) in directions conducive to human rights. Again, a few examples suggest the vast range of issues addressed: contracts, property rights (including limits on purposes and means of government takings), foreign investment, financial markets and institutions, intellectual property, social welfare, consumer protection, and methods for drafting economic laws. The array of participants has been similarly broad, including economics, trade and foreign policy-related U.S. government agencies, major foundations, universities, law firms, industry associations, labor unions and others.

Successful reforms in these areas contribute to enjoyment of some human rights (principally economic and social ones) and indirectly to securing those rights by sustaining economic growth. Redistribution—a subject of rising official and popular interest in China—may be required to forge closer links between growth and these rights. More indirectly, such reforms may advance civil and political rights (or demand for them) by increasing the affluence and size of the middle class or China’s openness to the outside world and its ideas about human rights.

Engagement in this vein has been successful partly because it has appeared non-political and technical, tapped influential Chinese constituencies, offered paradigms that enjoy great stature, and been backed by temperate, sustainable pressure from the U.S. U.S. models and advice based on them exert “pull” because of widespread belief in American-style capitalist-based legal structures’ ability to deliver the economic growth that China’s leaders ardently seek. The “push” of pressure on China to pursue such reforms has been moderate and durable because of participating and supporting constituencies in U.S. bureaucracies that focus on trade and investment and the U.S. business community that invests in, sells to, or imports from China. They understandably have embraced an approach stressing engagement and firm but measured calls on China to make market-supporting reforms.

Here too, the PRC regime’s apparent perception that such reform efforts will not bring “excessive” pressure for human rights may be a misguided but, from a human rights perspective, felicitous assumption. Top leadership preferences aside, U.S.-based

and U.S.-backed programs in these economics-related fields have developed partners and beneficiaries across Chinese government, academic and Party organs who now have material and professional stakes in their success.

Fourth, U.S. private actors, sometimes with government funding, have undertaken educational, scholarly and professional exchanges with China. With Fulbright grants, State Department “rule of law” money and other public and private sources, American universities, think tanks, law firms, professional and voluntary organizations and others have played host to—or sent members or staff to China to engage with—Chinese colleagues, counterparts and clients. These connections provide avenues for diffusing human rights-supporting values. They offer vital support for like-minded Chinese participants, providing external endorsement, foreign “cover” or international visibility (and therefore some degree of political immunity) for Chinese reformers who advance ideas that otherwise would face criticism, rejection or retaliation.

Law-related fields provide examples of the varied foci of these human rights implication-laden interactions: a “human rights” amendment to the constitution, “rule of law” values, judicial independence and review, government accountability through more effective administrative litigation, a freedom of government information act, enhanced due process protections in criminal justice, narrowed scope for detention without trial, improved economic laws and civil justice, legal professionalism, and the like.

Here too, prospects for influence have gained from the undertakings’ appearing relatively apolitical (in that they include only minor, indirect U.S. government roles and usually eschew articulated agendas of radical change), having eager local partners (for whom intellectual sustenance, moral support and political insulation are a heady combination), and enjoying prestige (among reformers, given the identification of the U.S. with relevant ideals of rights, justice and constitutionalism, and among a broader swath of the regime, given the perceived need to address legitimacy-undermining and unrest-stimulating official misbehavior).

Fifth, a more critical approach focusing on core civil and political human rights sometimes works, even as part of U.S. government policy. Although it may seem paradoxical, when the U.S. takes a relatively tough line with China on issues such as torture and humanitarian issues, China does not strongly denounce interference in its internal affairs or U.S. pursuit of a political agenda. Beijing apparently understands the political infeasibility of defending (if not denying) such rights abuses. Also, China has accepted relevant international legal principles (including the U.N. Convention Against Torture, which China ratified in 1988) and thus estopped itself from challenging those norms and would undermine its carefully cultivated (if not wholly accurate) claim to honor resolutely its treaty commitments.

More confrontational civil and political rights-promoting efforts—especially those moving beyond *jus cogens*-type concerns—have been most promising outside U.S. government and closely related undertakings. Here too, participants and foci range widely: reports, congressional testimony and lobbying by human rights groups; federal

lawsuits brought by American lawyers for Chinese nationals claiming human rights abuses; research by think tanks and scholars; reports and commentary in U.S. media; hearings and reports by congressionally chartered commissions with mandates to monitor Chinese human rights; floor statements or press releases by members of Congress; and others.

These undertakings have functioned well as complements to official U.S. policies of engagement. They have fared better than they would have as supplements to a harder-line policy that likely would bring more costs than benefits to the pursuit of improved human rights conditions in China.

Futility or Perversity of a Harder-Line U.S. Policy

Several features of politics and policy support the conclusion that little would be gained and something might be lost if U.S. policy took a harder line, whether through tougher tactics or greater emphasis on aspects of human rights that produce the most friction in bilateral relations.

First, much has been gained from “acoustical separation” between administrations’ policy of engagement and other American entities’ pressing more assertive positions. Organizations based in the U.S. and international groups with significant American support or presence—such as Human Rights in China, Asia Watch, the Laogai Foundation, or “Free Tibet” entities—can carry on their activities without the Chinese regime imputing their actions to the U.S. government. The same is true of organizations—such as the Lawyers Committee for Human Rights, U.S. labor unions or organizations concerned with religious liberties—that address, but do not focus primarily on, Chinese human rights.

This “acoustical separation” extends to U.S. government organs outside the executive branch. Beijing does not like critiques of the PRC’s human rights record from the floor of Congress. Nor does Beijing welcome lawsuits—typically brought under the Alien Tort Statute—against high Chinese officials, alleging abuse of Falun Gong adherents, political dissidents from the Tiananmen Movement or the China Democracy Party, prison laborers, and other Chinese nationals. China complains to the administration about “China bashing” in Congress. Beijing has sought, and sometimes obtained, executive intervention to urge courts to dismiss ATS cases. But that is not the same as imputing Senators’ or Representatives’ views or judges’ opinions (much less plaintiffs’ claims) to U.S. foreign policy. China has been similarly acquiescent about congressionally established commissions focused on China: the U.S. Congressional-Executive Commission on China (which addresses rule-of-law and other human rights-related issues) and the U.S.-China Economic and Security Review Commission (which has been highly critical of China’s behavior, including on issues with human rights implications).

Much here has changed since the early days of Sino-American rapprochement. Then, PRC official statements and media reflected a seemingly genuine lack of

appreciation—and at minimum a strong tactical disregard—for the mutual independence U.S. government organs. In the early 1980s litigation over the Hukuang Railway bonds and in the 1979 foreign policy flap over the Taiwan Relations Act, Beijing embraced an unwarrantedly unitary view of the American government (and sometimes private parties too) that it no longer presses.

A harder U.S. government line risks eroding hard-won acoustical separation. It would invite Beijing to return to articulating (and perhaps believing) a conspiratorial vision of U.S. public and private actors. This would compress the space that such organizations and individuals have employed to press lines more assertive than those pursued by the President, State Department and other executive branch arms. It could undercut China's grudging engagement with such actors' criticisms, weaken their actions' impact on international public opinion, and constrict economic, social, professional and programmatic ties with China that have advanced human rights.

Second, the U.S. has limited and probably declining ability and will to pursue a harder line. American politics, laws and aspects of the national interest weigh significantly—and increasingly—against a tougher approach. Before China entered the WTO, U.S. trade law's requirement of annual renewal of China's most favored nation trading status famously provided occasions (after 1989, fortuitously coincident with anniversaries of the Tiananmen Incident) for scrutinizing PRC human rights behavior. The power to deny MFN was never used although 1989 brought a near miss, averted by an executive order that partly satisfied demands to censure abuses committed in suppressing the Democracy Movement.

As economic relations with China burgeoned in the 1990s and memory of Tiananmen faded, U.S. interest group politics became more favorable to engagement. The pattern was perhaps clearest in the saga of support for the PRC's accession to the WTO in 2000. U.S. businesses with investment or trade stakes in China, proponents of freer trade policies, and those who argued that economic ties and engagement would help transform China into a more liberal, human rights-regarding polity overcame labor unions representing workers in vulnerable industries, engagement-skeptics in the human rights community and other ardent critics of the PRC. This secured passage of legislation that granted China "permanent normal trading relations" and thus took a vital step in providing the U.S.'s indispensable support for China's WTO entry.

Today, the alignment of interests remains unfavorable to a harder-line policy. Despite early frictions over the EP-3 reconnaissance plane incident and support for Taiwan, the Bush administration has emphasized a positive, strong relationship with Beijing. The massive bilateral trade imbalance and Chinese efforts to acquire high-profile U.S. companies have stirred criticism in Congress, some of it with human rights elements and much of it from the Democrats who have now regained a majority. Human rights groups have pressed Congress to take tougher stands. But this has not imperiled engagement or returned human rights to a central place in American China policy. U.S. pressure on China remains temperate (or tepid) even on narrowly economic issues such as currency revaluation. Speaker Pelosi's agenda notably omits anything strongly

evocative of the human rights-based trade sanctions legislation she sponsored after Tiananmen. Labor interests, so prominent in earlier human rights critiques of engagement, seem unlikely to provide effective support for a more critical policy now.

Such restraint in U.S. policy also reflects international constraints. The pressure Washington can exert depends—albeit very indirectly—on American “hard power,” which is now heavily committed in areas far removed from China and its human rights record. Potential pressure on China is further reduced by Washington’s desire for Beijing’s cooperation or acquiescence on North Korea, Iraq and anti-terrorism initiatives. The situation has become reminiscent of the early 1970s dawn of Sino-American rapprochement or the years following normalization, when Vietnam, the Cold War and national security were central to bilateral relations and pushed human rights to the margins.

Human rights’ significance in U.S. China policy always has been partly a matter of American “soft power,” which is at low ebb. Beijing is can better resist pressure from Washington in an era when the world—and especially states vital to an effective international human rights-promoting policy—does not regard the U.S. as a human rights “city on a hill.” Key EU states have never been reliable supporters of U.S. efforts to press China on human rights. For example, Washington long has had to struggle to keep European support for post-Tiananmen arms sales limitations, which had been couched in human rights terms. Prospects for cooperation have dimmed with rising European objections to (and criminal investigations of) alleged human rights infringements by U.S. operatives in connection with Iraq, Afghanistan or anti-terrorism activities. In East Asia, China has become more effective in exploiting resentment of U.S. policies that seem to subordinate other concerns to the war on terrorism, dictate domestic policy to other states, or reflect anti-Islamic agendas.

Third, China has growing capacity and will to push back. Stunning economic growth and ascension to the top ranks of trading, foreign investment-hosting and foreign exchange reserve-holding states have given Beijing economic clout and, thus, political influence (even as they also have brought increased vulnerability to international pressure on human rights). Allocation of some of its recently acquired wealth to military modernization and diplomatic initiatives has enhanced China’s international leverage. As Beijing’s newly assertive position in international fora and articulation of doctrines such as China’s “peaceful rise” indicate, Chinese leaders increasingly insist that China receive the deference due a great power (a point the U.S. has parried, but also acknowledged, in urging China to become a “responsible stakeholder” in the international system).

The principles in the service of which China deploys its power imply resistance to foreign pressure on human rights. The venerable Five Principles of Peaceful Coexistence—demanding that states “respect” fully each other’s sovereignty—remain at the core of PRC foreign policy rhetoric and have enjoyed a renaissance. Beijing hews to a “black box” notion of sovereignty and, in turn, an aversion to declaring a state’s human rights conditions a legitimate focus of international concern or intervention.

This position was evident in denunciations of NATO intervention in the former Yugoslavia as American “hegemonism” under the pretext of humanitarianism. It appeared again in Hu Jintao’s recent reaffirmation of the need to respect Sudan’s sovereignty and regard Darfur as an internal problem that accompanied the Chinese President’s limited concession to Western calls to pressure al-Bashri and endorse an international role. In recent years, routine Chinese denunciations of a U.S. strategy of “peaceful evolution” (of China into something more to Washington’s liking) have reflected the same perspective with respect to policies targeting human rights in China.

China’s rise as an international power, the collapse of socialist ideology and the regime’s growing wariness of basing legitimacy on economic performance have supported a turn to nationalism. This reinforces Chinese rejection of U.S. pressure to address human rights shortcomings, deriding it as “interference” in Chinese affairs or foreign presumption of a right to “judge” China.

Beijing’s newly cultivated “soft power” also rebuffs international pressure on human rights. “Respect for sovereignty” has been a central and saleable principle, particularly with developing countries and East Asian states. Also in the mix has been a dilute version of the cultural relativist “Asian values” arguments that rejected “ethnocentric” Western human rights critiques during the 1990s. One contemporary example is the PRC’s support for “Confucius Institutes” in the U.S. and elsewhere. Other, weightier examples lie in political aspects of China’s pursuit of closer relations with the ASEAN states, the Shanghai Cooperation Organization countries and possible members of an East Asian Community. These developments may signal a troubling “pushback” from China, supported by Russia, against the notion of universal human rights that it had accepted in principle a decade and a half ago.

China’s behavior as a member of the new U.N. Human Rights Council has reinforced many of these worries.

Fourth, Beijing’s growing concern with instability—fueled by rising inequality and popular perceptions of social and economic injustice—has its dark side for human rights. While the regime’s attention to such problems brings a welcome focus on social, economic, and political accountability-related rights, it also reflects problematic human rights conditions. The regime’s fear of unrest from laid-off workers, dispossessed peasants and the like also has contributed to a chillier climate for political reform, liberal intellectual discourse and, in turn, supportive and resonant U.S. efforts.

These developments may invite arguments for U.S. policies that take a tougher line, to compensate for China’s rising ability and inclination to push back. While this impulse is understandable, it is likely to be misguided, given the current alignment of capacity and will and likely trends. Engagement arguably has worked in circumstances that were similarly unpromising (though not dire as in Kim’s North Korea or Pol Pot’s Cambodia, where non-engagement seems the better course). A plausible account of human rights-enhancing change in the former Soviet world and in now-democratized Northeast Asia credits U.S. policies that maintained engagement and exerted pressure

despite constraints that the Cold War imposed on pressing both ally and foe. Because a more aggressive U.S. policy would be of uncertain vigor and durability, it could prove irresponsible, giving Chinese reformers false hope and encouraging reckless efforts. Those who would advocate a much tougher U.S. line also should draw caution from the fact that the articulate and audible community of Chinese concerned about Chinese human rights is divided over what the U.S. should do. There is less of a consensus for abandoning engagement than there was, say, among South African opponents of apartheid for boycotts and divestiture.

The better hope still lies in an approach to Chinese human rights that makes the most of limited U.S. government resources and commitment, takes advantage of acoustical separation among U.S. public and private actors' undertakings, and appreciates the wisdom of Chairman Mao's exhortation to let a hundred flowers bloom.