

Does the diplomacy of shame promote human rights in China?

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ABSTRACT Human rights advocates have sought to shame the government of the People's Republic of China (PRC) into compliance with 'universal' norms. For more than a decade, foreign critics have tried to give the PRC the diplomatic equivalent of a black eye. Proponents of human rights have exposed abuses in the PRC, condemned Beijing in international settings, and protested when PRC leaders travelled abroad, as a way of denying the PRC international prestige. In response, the PRC has issued a sequence of indignant white papers on human rights and has demonstrated a robust capacity to offer gestures of compliance while otherwise resisting pressure to reform. This paper questions whether the effort to shame the PRC leads to enduring improvement in the protection of human rights. It suggests that efforts to shame Beijing arouse indignation born of national pride, coupled with a cultural relativist defence, but that there is little evidence of enduring change. Thomas Risse and Kathryn Sikkink's model of socialisation to international human rights norms informs an examination of how progress toward improved human rights in the PRC has 'stalled'. Indeed, absent a viable opposition within China, shaming may not only be ineffective in altering Beijing's behaviour, but also counterproductive.

Advocates of human rights have sought to shame the government of the People's Republic of China (PRC) into compliance with 'universal' norms.¹ By sustained and vigorous efforts over more than a decade, governments, non-governmental organisations and international organisations have sought ways to give the PRC the diplomatic equivalent of a black eye. Proponents of human rights have published reports exposing abuses in the PRC, taken actions to condemn the PRC at international fora, and staged protests when PRC leaders have travelled abroad in attempts to sully Beijing's international image. This is done as one way to promote reform in the PRC. The question is: does the diplomacy of shame promote human rights in China?²

By posing questions about the effort to shame the government of the PRC, one is not denying that international pressure has affected the way in which human rights are considered by China's leaders. External pressures have caused Beijing to respond, but its responses have not yet transformed the PRC into a rights-regarding society.

In most respects China is a more humane place today than it was during the

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years when Mao Zedong dominated it and ideological extremism served as a justification for the wholesale deprivation of human rights. But that life has improved for many citizens in the PRC is not to suggest that advocates of human rights can relax into complacency. Plenty of systemic and attitudinal causes of continued abuse in the PRC have led to reversals in fortune for targeted groups and individuals. Indeed, even with increased attention by PRC officials to the need for improved protection of human rights, the litany of reported violations is stunning.³

Moreover, the economic development that is widely assumed to improve the conditions in which the Chinese live is not entirely salutary. Economic growth has introduced social, political and commercial opportunities for some and the emergence of new modes of infringing on or suppressing the human rights of others.⁴ So, although there have been significant improvements in the PRC, further extensive improvements are assuredly warranted.⁵

Acknowledging that conditions in the PRC have improved prompts one to consider the causes of those improvements. To encourage continued expansion of human rights in the PRC, it is important to know what has generated the trend towards improvement, slow though it may be. Even if one can demonstrate that pressure applied from abroad has affected the way the Chinese elite thinks about human rights, determining which forms of pressure have been most effective remains at issue. If human rights advocates aim to spur systemic changes in the PRC that assure wider, enduring protection of human rights, not only isolated and instrumental extensions of liberty, it is worth considering whether shaming is an effective means to that end or not.

In a study of the PRC's compliance with the international human rights regime since 1989, Anne Kent writes that the PRC has become more compliant, but its compliance does not result from internalised, learned behaviours. That is, the PRC has developed the skill to negotiate in multilateral fora that monitor human rights practices and in bilateral relationships where human rights have become issues of contention. Beijing has become adept at offering gestures of compliance in exchange for other benefits—status and prestige among them—that the PRC seeks. While this has resulted in increased attention to human rights in the PRC, Kent concludes that:

... despite their best efforts, UN human rights bodies and the broader international human rights community have not succeeded in breaching the divide between China's international human rights policy and its domestic human rights practice, but they are slowly making some inroads.⁶

The question remains whether enduring, systemic changes that enhance the protection of human rights in China result from efforts by advocates abroad to condemn the PRC in multinational settings, to demonstrate in public places to distract from or disrupt visits by PRC leaders, or to denounce PRC leaders who abuse or fail to protect human rights. Simply put, do efforts to shame promote human rights in China?

To establish a causal link between efforts to shame and improving conditions in the PRC one would have to determine that the PRC is susceptible to shaming—that efforts to shame it or its leaders have, in fact, aroused a sense of

shame. If that can be determined, then one would have to demonstrate that, once shamed, the government of the PRC took steps that did, in fact, improve the standards by which human rights are protected. One might also differentiate among forms of shaming to discern whether some approaches were more effective than others, or more effective at certain moments than at others. If a causal link can be established between shaming and improved protection of human rights, it would be worth considering whether improvements come at a cost. That is, are there unintended consequences of using shame as a tool to encourage change in the PRC?

These questions are uncomfortable to confront. They touch on a perennial problem with which students of China have long contended: how does change come about in China? Does it result from internal or external pressures, or some combination of the two? Another difficulty is that advocates of human rights undoubtedly perceive their commitment as a badge of moral authority. Questioning the efficacy of shaming is not intended to impugn the motives of human rights activists nor to deny the possibility that their efforts are meritorious. Even if efforts to shame are ineffective, or have positive effects with costly consequences, as expressions of moral indignation they may yet be judged to serve a function. The impulse to express indignation by shaming may reaffirm the indignant party's own resolution to preserve human rights and put others on notice that violating international norms has a price.

It is difficult to disentangle shaming from other tools used to exert pressure on the PRC. Anne Kent attempts to isolate the effectiveness of the UN regime in compelling behaviour by the PRC. She asks:

First, to what extent can the effectiveness of the UN regime be tested separately from the effects of the human rights regime as a whole? Second, how can the effectiveness of the international regime be tested separately from the impact of human rights pressures within China?

The same questions may be asked about shaming. Can the effects of shaming be isolated from other pressures? Can the effects of external efforts to shame the PRC be differentiated from domestic pressures in China that promote human rights?

One must also consider how shame is manifested in the PRC. Do efforts to shame evoke a sense of shame? If so, is shame aroused in the hearts of the PRC's central leadership only, in the minds of the elite stratum of intellectuals and public servants who advise key leaders, or does it touch the broader population throughout the PRC? If one hopes specific consequences will flow from shaming, it matters greatly who, if anyone, is shamed.

Questioning the efficacy of shame reflects a gnawing concern that, in the Chinese case, well intended efforts to use shame to improve human rights may be counterproductive. Leaving aside whether shaming has worked with other states, in the case of the PRC efforts to shame at this juncture may reinforce pre-existing rigidities in the leadership that make more difficult the liberalisation and compliance that is, otherwise, the aim of human rights advocates. Again, this is not to suggest that *all* pressure on Beijing will fail to elicit desired results, but that shaming may not be a productive way of encouraging systemic changes that

promote human rights.⁸

While the foreign advocates of human rights have looked for ways to sully Beijing's international image—to give Beijing a black eye—Beijing has responded in ways that do not indicate a strong sense of shame. The leadership of the PRC has responded, in part, with a series of pronouncements and white papers. These proclamations lay out a view of human rights and of the campaigns to erode Beijing's reputation that suggest the efforts to shame result in indignation and defiance.

Advocating human rights

Advocating human rights has a certain cachet, even though the consistent application of standards and the willingness of critics to make sacrifices on behalf of their ideals are illusory. Who, in this era, dares to oppose human rights? Even rights-abusing governments may claim to be concerned about the protection of human rights. Naturally, difficulties arise as one tries to define or delimit what is meant by human rights. Definitions abound, but consensus is elusive. The issue is also highly susceptible to politicisation, making consensus even more difficult.

Proponents of human rights who shame the government of a rights-abusing state may believe that exposing abuses:

- will threaten the legitimacy of the government and cause it to ameliorate the conditions that were seen, abroad, to be shameful so the leadership can relieve its embarrassment and shore up its hold on power;⁹
- will prompt a faction in government to recognise the cost to development goals of failing to reform in the human rights realm, wrestle with those within the regime who resist reform, and improve protection of human rights, even while maintaining the political system;
- will inspire a popular uprising that will cause the collapse of the present system of government and the introduction of a democratic form that will enhance the protection of human rights.¹⁰

Some advocacy groups, such as Human Rights Watch/Asia, make clear their intent. On its web page, Human Rights Watch/Asia states: 'Our goal is to make governments pay a heavy price in reputation and legitimacy if they violate the rights of their people ... Often our best tool is to publicize our information on abuses in order to embarrass a government before its own citizens and in the eyes of the international community.'¹¹ There is a significant premise buried in that mission statement, namely, that shaming will cause a desirable reaction in the target state. It presupposes that the citizens of the state will 'hear' the critics and be prompted to pressure the government to reform. It also presupposes that once subjected to international scrutiny and denunciation, a state will necessarily take steps to improve the protection of human rights.

For instance, the widespread practice of 'monitoring' human rights abuses, has multiple effects, among them the 'hue and cry function' that makes use of information gathered as a way to 'mobilize shame and to pressure specific cases and to extract from governments the need for new areas of rights.'¹² Andrew

Nathan states that: ‘By publicizing abuses (a strategy known as stigmatization), human rights NGOs seek to mobilize psychological and political pressure against violators’.¹³ They try to make governments ‘accountable’ by publicising abuses, expecting thereby that governments will try to avoid further public shaming, will improve mechanisms that protect human rights in their jurisdiction, and will thereby limit their own vulnerability to monitoring agencies. In those cases, shaming is the intended consequence of publicity and improvements are the intended consequence of shame.

There are also agencies that monitor for the purpose of informing and inspiring a population to take action itself against its government. For example, *Human Rights in China* claims its primary purpose is ‘to encourage and empower the nascent grassroots human rights movement in China’ by:

... documenting and publicizing human rights abuses in China, informing Chinese people about international human rights standards and the methods by which they are enforced and assisting those persecuted and imprisoned in China for the non-violent exercise of their rights.¹⁴

In these cases, shame may be a collateral result of the monitoring effort. By contrast, the UN Commission on Human Rights and its Sub-Commission on Prevention of Discrimination and Protection of Minorities issues resolutions to ‘call international attention to any state’s domestic human rights abuses and submit that state to a process of “reintegrative shaming”’.¹⁵ That is the most substantial multilateral forum in which shaming is used to pressure the PRC.

In the realm of bilateral relations, the actions of states to condemn or embarrass the PRC have been extensive. In legislative chambers and halls of parliament, elected officials have used their status to command a bully pulpit from which to decry China’s record of abuse. The spotlight of public scrutiny was directed at the PRC most harshly after the suppression of demonstrations in Beijing during June 1989. It is paradoxical that the colossal political movements that deprived people of human rights in China before 1989 did not arouse the degree of indignation that has rained on Beijing since then.¹⁶

While Beijing was able to manage the application of pressure on it to reform before 1989, PRC leaders have not been able to shield themselves from criticism since. Beginning in July 1991, with the arrival of an Australian human rights delegation, foreign delegations arrived in the PRC prepared to take Beijing to task for its disregard of human rights.¹⁷ Andrew Nathan reports about high-level visitors to the PRC.

From 1991 onward an endless procession of important visitors made public and private representations on human rights, including the French prime minister, the Japanese prime minister, two Australian parliamentary delegations, many US congressional delegations, a European Community (EC) delegation, the Polish foreign minister, a Canadian parliamentary delegation, a delegation of EC ambassadors visiting Tibet, and German Chancellor Helmut Kohl.¹⁸

Abroad, demonstrations and protests staged by non-governmental agencies and human rights advocacy groups have expressed everything from:

- anger about the PRC government's handling of demonstrators in Beijing in 1989;
- demands that the PRC respect human rights broadly;
- support for the freedom of Tibet from PRC rule; and
- support for the independence of Taiwan.

The most senior leaders of the PRC—especially Li Peng—have come to expect protests. In the early 1990s Li visited Australia, where he was confronted by demonstrators protesting at his role in ordering the violent suppression of demonstrations in 1989. In Germany, 26 members of the Christian Democratic Party issued a statement to criticise Li's role and Amnesty International organised protests against Li in Munich, Berlin and Bonn.¹⁹

Qiao Shih was subjected to demonstrations deploring his role in the deaths of unarmed Tibetan demonstrators. The Australian parliament also made a motion to condemn its own government for hosting the 'merciless butcher'.²⁰ Protestors dogged President Jiang Zemin on his trip to the USA in 1997. When Premier Zhu Rongji visited the USA in 1999, he was quoted as demanding that advocates of human rights protesting outside his hotel in New York respect his human rights and allow him to sleep.²¹ His visit to Canada, which followed, was marred by controversy prompted by the Mayor of St John's, who permitted the Tibetan flag to be hoisted over the city hall just before Zhu's arrival.²² One presumes that protests such as these are held specifically for the purpose of depriving the leadership of the state of the dignity and legitimacy they seek. However, by the time Zhu reached Ottawa, he complained that he was so tired of talking about human rights at each stop on his voyage that his mouth was blistered. His was an expression of exasperation, not shame.

There is a perception abroad that in the PRC leaders 'tend to be hypersensitive to attention to [the PRC's] human rights practices'.²³ For shaming to be effective in promoting human rights, though, one must understand how those leaders react to criticism. One must suppose that when the state's rulers are embarrassed they will then be impelled to address the concerns of their critics.

A broad comparative study of how states adapt to international human rights norms led Thomas Risse and Kathryn Sikkink to propose three ideal types of socialisation. These processes, which are not mutually exclusive, are:

- processes of adaptation and strategic bargaining;
- processes of moral consciousness-raising, 'shaming', argumentation, dialogue and persuasion;
- processes of institutionalisation and habitualisation.²⁴

Although the study did not consider the PRC as a case, there is much in the general findings about the behaviour of other states that applies well to the PRC. Most illuminating is a five-phase 'spiral model' that Risse and Sikkink devise to explain the stages through which the processes above can develop. Briefly, this model suggests the following.

First, where repression of human rights exists and where the domestic opposition to the repressive regime is too weak to challenge it, a transnational network of advocates may be 'activated' to apply pressure on the regime if information

about the conditions in the state is exposed.²⁵

Second, once information about the repression is known and disseminated by the transnational network, external advocates may lobby international organisations and governments of individual states, which may result in some forms of pressure—often moral suasion—applied to the abusive regime.

The initial reaction of the norm-violating state ... is almost always one of denial. [meaning] that the norm-violating government refuses to accept the validity of international human rights norms themselves and that it opposes the suggestion that its national practices ... are subject to international jurisdiction.²⁶

Third, if external pressure is not relieved, the repressive government may offer what Risse and Sikkink call ‘tactical concessions’, or ‘cosmetic gestures to pacify international criticism’. These may entail the release of political prisoners or some other demonstration of responsiveness, but ‘the repressive government is usually acting almost solely from an instrumental or strategic position, trying to use concessions to regain military or economic assistance, or to lessen international isolation’.²⁷

However, tactical concessions can lead repressive governments down a slippery slope towards genuine reform. If they miscalculate the effects of the gestures they offer, they can embolden domestic critics in ways that invite greater pressure for reform. They may also offer verbal assurances to external organisations that conditions will improve. Such assurances may then be used as evidence of a commitment, even when the repressive regime had no intention of abiding by them. To avoid hypocrisy, the repressive regime may find itself ‘trapped’ into complying more fully with the assurances it offered than it had initially expected, leading it to make more concessions than it expected to make.

Fourth, if a repressive government is pushed beyond the ‘tactical concession’ phase, it may find itself adopting the international human rights norms ‘to describe and comment on their own behavior and that of others’.²⁸ The ‘prescriptive status’ that international norms then have in the targeted state may not reflect the ‘true beliefs’ of the government. However, the government may slide into compliance with international norms because it has unwittingly allowed its legitimacy to be tied to standards which it reinforces by its own public statements and commitments.

This is analogous to what Rein Mullerson labels the ‘hypocrisy trap’. Having signed nine of 25 major human rights conventions, the PRC leadership can now be called upon to live up to its word or face accusations of hypocrisy.²⁹ Rulers of the PRC, like rulers elsewhere, who believe that signing up to the UN regimes has no practical consequence may find ‘that their behavior has nonetheless led to the emergence of certain norms and even practices which may really start to affect governments’ policy’. Signing agreements has ‘the capacity to create expectations on the part of individuals and ... other governments—expectations which states may find difficult to resist’.³⁰

So, even alterations in policy undertaken for instrumental reasons can lead to a gradual adaptation of the abusive regime to improved standards of behaviour. When there is a substantial change in leadership, as may yet happen in the PRC, this effect can be enhanced because, although ‘the old leadership is not

persuaded, the new leadership has internalized human rights norms and shows a desire to take its place in a community of human rights abiding states'.³¹

Finally, when a government genuinely accepts the validity of the international norms and exhibits 'rule-consistent behaviour', it is held accountable to desirable standards by domestic and external pressures. That does not mean violations of human rights will not occur, but that the government is committed to institutionalising human rights norms and 'norm compliance becomes a habitual practice of actors and is enforced by the rule of law'.³²

The role of shame

Evoking a sense of shame is fundamental to the international pressure applied to a norm-violating state. Risse and Sikkink indicated that 'moral consciousness-raising' often depends on a process of shaming.

Norm-violating states are denounced as pariah states which do not belong to the community of civilized nations, as was the case with South Africa. ... Some repressive governments might not care. Others, however, 'feel deeply offended, because they want to belong to the 'civilized community' of states. In other words, shaming then implies a process of persuasion, since it convinces leaders that their behavior is inconsistent with an identity to which they aspire.³³

Where a population is able to criticise its own government, foreign institutions or governments may help to promote positive changes by encouraging domestic critics. Where a population is restricted from criticising its own government, and especially in places where punishment for dissent is severe, it is less evident what role foreign critics can have. If the abusive government restricts domestic opposition to begin with, the likelihood that shaming it from abroad will cause the government to change its behaviour seems remote. A state would have to operate by a system in which opposition could be expressed before shaming is likely to have a significant effect. In the PRC to date, that has not been the case.

Nevertheless, some analysts are confident that the shaming has a direct effect on the conduct of government.

The pointed finger of shame, particularly when directed by an organization with some appearance of impartiality and political independence, has caused executions to be stayed, death sentences to be commuted, torture to be stopped, prison conditions to be ameliorated, prisoners to be released, and more attention to be paid to the fundamental rights of many citizens.³⁴

Proponents of shame may also believe that their actions encourage the victimised population to know that its suffering is noticed. Rein Mullerson writes about the pressure applied to the Soviet Union and Eastern European states during the Cold War. He observes that more than the immediate response of governments subjected to the pressure of shame, another important objective is that:

... international concern or pressure for human rights affects the population of a target state ... If a population, which suffers at the hands of a bloody dictatorship, is simply left alone with its oppressors, there is little hope for the civilized development of such a society.³⁵

Of course, this reasoning rests on the assumption that foreign condemnations and shaming of abusive governments can be perceived by a victimised people. In situations where the government sharply restricts access to news and information from outside the state, the population is less likely to perceive these acts on its behalf. In the PRC over the past two decades there has been a gradual increase in the accessibility of news and information from abroad, even though the Chinese press is still regulated to promote a single, acceptable view of controversial topics. It is hard, at present, to imagine that information from outside about efforts to shame the government of the PRC will arouse popular unrest in the PRC, or comfort those who languish in prisons.

To be sure, efforts to shame are not made in isolation, but in concert with other pressures applied to an abusive regime, and demands from within society. Perhaps it is not possible to isolate the effects of shaming alone. Mullerson suggests that the non-governmental organisations that publicise abuse play a role that is 'emotional and mobilizational as well as practical. Without this support, official human rights diplomacy would not only be ineffective, it would probably wither completely away.'³⁶

If he is correct, then one reason to shame is to tighten the psychological noose around the neck of a regime that is already under pressure to respect human rights. Even if it is not possible to identify precisely the way in which shaming itself promotes human rights, it feels to those who engage in shaming like the right thing to do. It is a compelling alternative to remaining silent in the face of abuse when one is not able to exert more tangible pressures on the regime one reviles. It may be morally defensible. The question remains whether it is productive or counterproductive.

Shaming and the People's Republic of China

One reason to question how well shaming works with the PRC is the particular frame of mind that the leadership in Beijing has about China's role in the world and its relationship to foreign states, especially Western states. The history of the PRC is one of ideological combat with imperialism and resistance to impositions on China's sovereignty. The PRC leadership has, since 1949, assumed a position of moral superiority in its relations with 'Western' states and Japan, the states from which criticisms are most often heard about human rights in the PRC. In addition, the PRC leadership appears to view the international environment as hostile towards its national interests and eager to constrain China from reasserting great power status. Consequently, Beijing seems distrustful of efforts from abroad to divert the PRC from acting as Beijing sees fit.

Beyond that, contemporary leaders in the PRC must disparage the criticisms they hear about China's human rights record because they know first hand how skewed these criticisms are. The men who now govern China know from personal observation that the human rights conditions in China's recent past were far worse than they are today. Whatever shortcomings the PRC may now be seen to have in the eyes of its foreign critics, these pale by comparison with the systemic abuses that occurred during the first three decades after the establishment of the PRC.

In an interview conducted by CNN correspondent Judy Woodruff, PRC Premier Zhu Rongji was asked to reflect how his own experiences with internal exile shaped his view of political dissent. He replied:

I think if you look you will find that our leaders all share a similar personal experience, namely that when they were young we were all fighting for democracy. We were fighting for freedom and fighting for the independence and liberation of our country. And it would be unimaginable that those of us who have spent a lifetime fighting to improve the rights of the Chinese people would want to go violate the rights of the Chinese people. So the question is, are we doing our work well? And we just have to work hard and do it better.³⁷

It must strike the elderly men in Zhongnanhai as bizarre that, once they began to instigate genuine and tangible reforms, once the lives of the Chinese at large began to improve with regularity, the international community struck at China's stance on human rights. For those who lived through the Three-Antis, the Five-Antis, Collectivisation of Agriculture, the Hundred Flowers Campaign, the Anti-Rightist Campaign, the Great Leap Forward, to say nothing of the Cultural Revolution, the gap between the past and the present must feel stark. Moreover, since 1979, the gap has narrowed between the range of liberties that foreign critics urge the PRC to protect and those that it does protect.³⁸ Knowing what they do about China's traumas during the Mao years, the third generation of leaders who now seek to rationalise and modernise the state must feel deeply offended that their efforts are greeted abroad by accusations of callousness.³⁹ The cynicism Beijing evinces in the face of criticisms about China's 'human rights record' may stem from a perception that foreign critics fundamentally oppose the development of China and harbour ulterior, political motives. When conditions in China were worse than they are today, those who now criticise so vociferously raised nary a peep. Finally, Beijing bristles when confronted by shaming diplomacy because it suggests that the accusers do not believe China's leaders are interested in expanding human rights in the PRC. This may help to explain why anger and frustration, rather than embarrassment or shame, result from foreign efforts to shame the leadership of the PRC.

The Tiananmen watershed

It is no coincidence that criticism of China's human rights abuses intensified as the Cold War ended. The USA and other Western nations emerged from the Cold War with a sense that their political values had been vindicated. Democracy and capitalism had prevailed over totalitarianism and communism. Many of the totalitarian and authoritarian states that remained were quick to scurry from Marxism to markets. It is no wonder, then, that advocates of human rights were emboldened by their own sense of the inevitability of democratic transformation.

What a colossal catastrophe it was for the PRC that its violent suppression of the protests in June, 1989, occurred at just that juncture. The violence unleashed by Beijing on 4 June stunned an international community that had, until only months before, become convinced that China had turned a corner on development and liberalisation. 4 June 1989, and its aftermath, changed all that.⁴⁰

Condemnation of the brutality was swift. For the first time, the UN Human Rights Committee criticised a permanent member of the UN Security Council.⁴¹ This corresponds well to Risse and Sikkink's notion of a 'repression phase' that initiates the spiral model of change.

The flood of attention paid to the PRC's abuse of human rights spilled out of the Tiananmen arena to other areas. Beijing was criticised, among many other things, for:

- using prisoners to produce low-cost goods that were shipped abroad;
- callous administration of orphanages at which unhealthy babies were separated from healthy ones and then left to die;
- abusing capital punishment by selling the organs of executed prisoners without the consent of the prisoners themselves and timing executions 'according to the need for organs ... China was in the business of providing organs for foreigners who could not get them elsewhere'.⁴²

The PRC was, for a time, forced into a defensive posture concerning its abuse of human rights. In the year or two immediately after the crackdown of 1989 the PRC found itself at a profound disadvantage in exercising power and influence in other spheres of bilateral and multilateral interactions.⁴³ The focus on human rights in the PRC had made it something of an international pariah, but not for long.

The PRC responded in a way that is consistent with the second, 'denial' phase of Risse and Sikkink's spiral model. Immediately after the events at Tiananmen, the government of the PRC chose not to respond to criticisms or to dismiss with defiance the accusations and to impugn the motives of the accuser. As with the other states that Risse and Sikkink surveyed, Beijing asserted that the criticism of it constituted an 'illegitimate intervention in the internal affairs' of the PRC.⁴⁴

In time, the approach of the PRC shifted in what, to some, appeared to reflect some division in Beijing about appropriate reaction.⁴⁵ Rather than avoid discussion of the issue, the PRC engaged in a rebuttal of the premises of the accusations concerning its record on human rights. This corresponds to a general tendency among East and Southeast Asian states in the 1990s.⁴⁶ Where human rights had once been something of a taboo in the PRC, discussion of it was suddenly encouraged.⁴⁷ Of course, the aim of discussion was to parry the arguments of foreign critics.⁴⁸

The pressure applied by foreign states and institutions led the PRC leadership to fight back. Its policy

... combined resistance and selective concessions, in a mixture designed simultaneously to rally Third World support, especially in multilateral settings, to appeal to advocates of *realpolitik* in the West, and to construct policy dilemmas for human rights advocates.⁴⁹

In this response, the PRC manifested precisely those qualities that Risse and Sikkink identify as part of the denial phase of the 'spiral model' they propose. As with expressions of denial by other states that pass through this phase, the white papers that Beijing has issued do not utterly reject the concept of human rights,

but make reference to ‘an allegedly more valid international norm ... national sovereignty’.⁵⁰

Arguably, the period immediately after 1989 was the worst that the PRC has experienced in pressure from abroad. Intensive efforts were made to shame the PRC leadership for what it had done. However, far from exhibiting a sense of shame about the suppression of demonstrations, Beijing manifested a determination to reassert order without regard to the niceties of human rights.⁵¹ It responded with ‘ideological counterattacks’, essentially accusing its accusers of exercising double standards. It also advanced the argument that because ‘cultural standards differ’, it was inappropriate for foreigners to impose their notions of human rights on the Chinese. In this effort, the PRC found solace in the support of other states that shared Beijing’s disdain for the high-handed and ethnocentric policies of Western Europe and the USA.⁵²

In the years that followed, Beijing’s response ‘also included hard-line actions on particular cases ... as if to make the point that international pressure was counterproductive’. Intensified abuse of Wei Jingsheng, perhaps the best known of Beijing’s political prisoners, and other prominent dissidents was intended to send a signal to foreign critics. This approach stands opposed to the ‘tactical concession’ phase that Risse and Sikking observed in states that were pressured by shaming and other measures to respond. It leaves one wondering whether shame was aroused by the moral suasion or other tactics used by external critics.

Andrew Nathan surmises that Beijing intended its harsh measures to ‘sustain a Western policy debate on whether human rights pressure on China was productive’.⁵³ Even if Beijing is not as inured to criticism as its response might otherwise suggest, that it can appear so dismissive of the pressures it confronts does, itself, suggest that certain pressures may be less effective than others.

White papers

Rather than react in shame, Beijing has responded with defiance and with some consistency in its response to its many critics. In a sequence of white papers concerning human rights, Beijing explained all that it has done to promote human rights and also articulated a view of human rights that has several hallmarks:

1. Conditions were worse in China before 1949 than since.
2. The PRC is still a developing country and must cultivate human rights in a way that is consistent with Chinese culture and the specific conditions in the PRC.
3. Consequently, the PRC emphasises the right to subsistence and development as the foundation for other civil and political rights.
4. Legal institutions exist in the PRC to safeguard civil and political rights, but the rights of the majority should not be undermined by the claims of a minority.
5. The PRC does respect universal human rights, but believes that these rights must be determined in a co-operative manner with other states, not imposed by some states on others.
6. Western states have tried to usurp the issue of human rights to use it as a

political lever against developing states, interfering in their internal affairs in a culturally hegemonic fashion.⁵⁴

The government of the PRC has made clear that, while it accepts the concept of universal human rights, it rejects the Western enterprise to impose on all states a single (Western) definition of those rights. One senses the frustration of the PRC, but also detects in this argument some strain between an acknowledgment of universality and a determination to defend particularity. So eager is the PRC to avoid having standards imposed on it by other states that it wraps itself in the language of universality to ensure communal acceptance, while arguing that:

China cannot copy the mode of human rights development of the developed Western countries, nor can it copy the methods of other developing countries. China can only start from its own reality and explore a road with its own characteristics ... China has ... found a road to promoting and developing human rights which is in line with the country's reality.⁵⁵

It is difficult to have it both ways. If the PRC does, indeed, accept the universality of human rights, its position would be more tenable if it were then to propose a way of arriving at a code of rights that would be universally acceptable. It does not. It claims universality while demanding freedom from standards defined by other actors.

Universality versus cultural relativism

There are real problems in the contest between universality and cultural relativism. It is not self-evident that either position has a monopoly on reason. Whether one accepts Beijing's view that national conditions matter or not, the determination with which the PRC promotes its perspective reinforces a suspicion that Beijing is not shamed by foreigners who seek to embarrass it into compliance; it is defiant.

When one's own human rights are abused or when one observes a loved one mistreated, one is certain that the infringement is undesirable. Those who order or commit acts of torture would, presumably, feel every bit as abused as those they victimise if they themselves were the victims. Suffering and pain are certainly universally human, as is the indignation one feels when one is treated unjustly by people in power. Surely those who argue against the universality of human rights are not suggesting that the lash or electric prod feel different in some cultural settings than in others or that degrading prison conditions and psychological abuse are culturally determined. Rather, adherents of cultural relativism seem to suggest that, while the lash, electric prod or undesirable conditions may not be accepted in some cultural settings, in other settings they may be justifiably used against certain individuals or classes of people.

Evidently, the capacity of humans to sympathise with the suffering of others is not widely manifested. History is replete with tales of suffering inflicted by individuals and groups who would themselves balk and cry if the same were inflicted on them. Sages and clergy would not have to preach to us that we treat our fellow human being as we wish to be treated if we customarily behaved in this way.⁵⁶

The prominence of the exhortation attests to the rarity of the practice.

Those who view human rights as universal are able to sympathise broadly with the plight of other humans, whether they know them or not, or whether they like them or not. They are capable of a degree of compassion or empathy with the suffering of others. They may even view the compassion they feel or show as an enhancement of their own moral worth. The more they feel or show, the more moral they are.

Those who reject the universality of human rights or, indeed, infringe the human rights of others are evidently capable of distinguishing between what they would seek to avoid themselves and what they do to other people. One supposes that the executioner would not, himself, wish to be executed. He carries out the execution because he has constructed a difference between himself and the condemned. In his mind, there is a reason why the condemned is not entitled to live, even as the executioner, himself, wishes his own life to be protected.

This is one lesson of the battlefield: the social construct of war transforms what would otherwise be viewed as horrid and unjustifiable acts of murder into virtuous acts of patriotism. Leaving aside the 'kill or be killed' dilemma that confronts those who hope to survive combat, one knows of war that it depends, in part, on the dehumanisation of the enemy. The sympathy, compassion and tenderness that one bestows on those one loves and that one wishes to receive oneself is suspended because one objectifies the enemy as 'other' and, therefore, unworthy of what is desirable and deserving of what is not. Perhaps something comparable governs the perceptions of those who violate the human rights of others.

The agony that the torturer inflicts on his victim can be justified, in the mind of the tormentor, because of some difference he perceives between himself and his victim. If this logic holds sway, it is easy to understand why a political regime would deny its citizens the right to know things and to do things that the elite members of the regime know and do themselves. The elite have constructed for themselves a scale of privilege in which they enjoy more and those they see as undeserving enjoy less. For such people, rights and privileges do not flow simply from being human, but from the category of humanity in which one is located. What rights and privileges one enjoys depends on where one fits in a social construct, artificial though it may be.

For those who see value in providing and protecting human rights, there can be little question that these rights are universal. That is, one's humanity entitles one to be regarded as having certain rights.⁵⁷ It is not one's citizenship or age or gender or colour or religion that matter, it is one's existence as human. If the creature is human, it is entitled to certain protections and privileges that are not extended to other beings. No matter how persuasive, no rationale justifies an infringement on the realm of rights a person has by virtue of being human.

While the egalitarian application of this principle may appeal to those who are already convinced of its merit, it is not as powerful an argument in the eyes of those who fail to see merit in universality. For one thing, values evolve. Societies that now considers themselves to be advanced cannot escape the uncomfortable truth that the past was a time when rights now viewed as universal were not always recognised as such.⁵⁸ The PRC has certainly harped on this point.

Herein lies a problem for those who advocate the universality of human rights.

If certain values really are universal, they can be expected by force of their inherent appeal to be transmitted from one portion of humanity to the next. It may accelerate the process of spreading to suggest, urge, cajole and apply other pressure to insular societies. However, it should not be necessary to impose values that one claims are universal. Advocates of universal human rights have also had difficulties persuading sceptics that rights presented as universal are necessarily anything more than the product of specific cultural or social inclinations. The government of the PRC has argued, in essence, that its determination of what constitute human rights is every bit as valid as the determination made by other states or institutions. It rejects the efforts to impose on it standards devised elsewhere because it asserts that those standards reflect parochial ideals that are simply branded as universal.

Beijing has also objected to the notion of universality because it claims that states must be free to regulate rights on the basis of their own particular stage of economic and social development. In the PRC:

... the top priority is given to the rights of subsistence and development, while taking into consideration the people's political, economic, social and cultural rights and the overall development of individual and collective rights.⁵⁹

For developed Western states to focus on civil and political liberties is fine, considering that these states already have already developed a high degree of prosperity and stability. The PRC does not discount the possibility of striving towards the same ends, but puts the need to reach a higher level of economic development first.

Critics of the PRC's white papers and other statements have dismissed these rhetorical efforts as crafty means to deflect scrutiny from a lamentable record of abuse. Perhaps, in part, they are right. However, it is also worth considering that values emerge in a community in ways that reflect the history and culture of that community. James Hsiung suggests that the notion of human rights originated in the West from a sense of emancipation from something. 'That something could be either a tyrannical government, the smothering influence of a ubiquitous church, or both.'⁶⁰ The search for emancipation, Hsiung contends, is not the dominant theme in communities influenced by Confucian thought. The individual's relationship to the state is adversarial in Western societies and consensual in those societies in which Confucian thought dominated.⁶¹

What, then, is one to make of the cultural relativist argument? For one thing, culture may be only one of several forces that condition a community's regard for human rights. More importantly, cultural underpinnings do not determine social outcomes. Ideals and values can depart from cultural underpinnings and develop in unimagined ways. So, while there is some merit to the cultural relativist argument, such merit does not lie in predicting behaviour on the basis of cultural factors.

Taiwan, for instance, shares the same cultural heritage as the PRC but has demonstrated a capacity to move beyond its authoritarian past to become a rights-regarding society. Moreover, it did so essentially on its own, without extensive external efforts to shame the Kuomintang (KMT) regime into compliance. Indeed, shame was used against the KMT-dominated government in the 1980s and 1990s,

but it was employed by domestic opposition more than external critics.

Greater merit may rest in the view that, because cultures differ, universal standards cannot be determined willfully by people emerging from one segment of humanity only. To be considered universal, an ideal must be esteemed across cultural boundaries and must demonstrate a capacity to ‘jump’ cultural barriers. If exposure to ideals or values newly articulated or developed in one cultural setting does not lead people to embrace that ideal or value in their own culture, how can one identify the value as universal?

It is worth considering whether Beijing’s dismissal of criticisms is sincere. It may not be that the leaders fail to see room for improvement, but that they feel entitled to determine for themselves what rights and privileges should be protected and which ones are inconsistent with the underpinnings of social and economic realities in the PRC. If this is their pre-existing attitude, how can proponents of human rights hope to use shame as a motive for behaviour?

Cosmetic gestures or tactical concessions

In addition to the general deflection of criticism through its human rights white papers, Beijing also uses “cosmetic gestures” to impress foreigners⁶². This corresponds with Risse and Sikink’s third phase of the spiral model, the phase of ‘tactical concessions’. Accordingly, governments

... changed their human rights practices only to gain access to the material benefits of foreign aid or to be able to stay in power in the face of strong domestic opposition. In fact, the process of human rights change almost always begins with some instrumentally or strategically motivated adaptation by national governments to growing domestic and transnational pressures.⁶³

Between 1990 and 1991 Beijing endeavoured to influence the debate in the USA about whether to grant most favoured nation (MFN) trade status to the PRC. Accordingly, the PRC released 881 individuals associated with the demonstrations in Tiananmen Square, martial law was lifted in Beijing, Fang Lizhi—a noted senior activist who had taken refuge in the US embassy—was permitted to leave the PRC, Han Dongfang—a labour activist dying in prison—was released and the PRC offered the USA assurances that it would not prohibit individuals ‘from going abroad for political reasons’.⁶⁴

In 1993, as the International Olympic Committee was preparing to make its decision about which city would host the 2000 summer Olympics, the PRC released its long-held prisoner, Wei Jingsheng. As the PRC application to the General Agreement on Tariffs and Trade was up for consideration, Beijing released Wang Dan, one of the most vilified students involved in leading the movement in Tiananmen Square in 1989. In neither case did the releases buy for the PRC the approval it sought. Both men were eventually arrested again.⁶⁵ Other prisoners were released on the eve of President Clinton’s decision about whether to grant MFN status to the PRC in 1993. Of those released, some were jailed again.⁶⁶

In 1994, as the USA was again determining whether to grant MFN status to the PRC, Beijing demonstrated a willingness to discuss individual cases of reported

human rights violations. It released more political prisoners and moderated the sentences of others. The PRC also sent delegations abroad to address the question of human rights, as an indication of the seriousness with which it wished to be portrayed dealing with human rights issues.⁶⁷

In the case of Wang Dan, the PRC thumbed its nose at the USA in a gratuitous piece of diplomatic cynicism. After President Clinton announced that he had 'de-linked' the granting of MFN from the human rights issue, the PRC then held rather prominent trials of political dissidents. News of the start of these trials was released just as Ron Brown, then US Secretary of Commerce, was about to begin a visit to China. Moreover, Wang Dan was rearrested just hours before Brown arrived in China.⁶⁸

When the PRC releases a well known political prisoner, is it possible to determine whether it did so in response to a sense of shame? Is it possible to distinguish between those acts of the PRC that are responses to shame and those that are instrumental in the conduct of political horse trading? Moreover, even if elaborate and well timed displays of clemency are responses to shaming, what role do these acts play in the broader effort to promote human rights in the PRC?⁶⁹

The arbitrariness with which a regime can, in response to political pressure, release an individual who had been sentenced to prison may be just as much a signal of systemic deficiencies as the arbitrariness with which a regime can arrest and imprison an individual. What comfort can advocates of human rights take from a decision by Beijing to let Wei Jingsheng or Wang Dan out of prison, for example, if it does so in response to political pressure or shaming from abroad? Does that not indicate that the judicial system in the PRC is still highly politicised and has yet to establish its independence from the political side of the house?

Moreover, if the PRC's release of Wei and Wang are viewed as responses to shaming, why is it that the Chinese government later detained, for apparently contrived reasons, such people as the Dickinson College librarian Song Yongyi and the Boston-based poet Huang Beiling? One would expect that, if the government was shamed into releasing dissidents like Wei and Wang, it would have become chastened about the arbitrary use of power, especially in cases involving individuals with links abroad, like Song and Huang. One would also need to account for the persistent reports of the brutal mistreatment of Tibetans, Uighurs, detainees in police custody and others, especially the highly visible Falun Gong practitioners. Regardless of what one concludes about the rationality of the Falun Gong adherents themselves, a government eager to avoid the pressure of externally applied shame would be unlikely to act with the force that has evidently been used to restrain those associated with the sect.

One explanation of why Beijing has used tactical concessions with impunity is that external pressure is not applied consistently or uniformly by all states. Where the promotion of human rights has been in competition with other interests that states have sought to advance with the PRC, or when one state has found itself in competition with other states for trade advantages with the PRC, governments have relented in their criticism and use of shame. Despite extraordinary attention to the human rights abuses that occur in the PRC, states, international organisa-

tions, commercial concerns of every variety, and multilateral institutions have sought active engagement with the PRC even after 1989. Holding out trade concessions as a way to encourage compliance with certain standards has had only marginal influence on the PRC.⁷⁰

In campaigns directed against other rights-violating states, Risse and Sikkink observed that governments hoping to promote human rights in a target state

... rarely employ consistent human rights policies toward a given state over a long enough period of time. We do not want to suggest that human rights concerns should always override other economic or strategic goals in Western foreign policies. But there should be clear recognition in policy making circles that a re-emphasis on economic or strategic goals after a period when human rights have been emphasized frequently created conditions where norm-violating governments were 'let off the hook'.⁷¹

Once a state is 'let off the hook', the process of reform may slow, be reversed, or stall at the concession stage. Risse and Sikkink write of certain 'blocking factors' that impede socialisation to international norms. Citing the case of Indonesia, Risse and Sikkink explain that the effectiveness of external pressures applied by the transnational network

... was limited by countervailing national norms and value structures which emphasized sovereignty and domestic cohesion more than human rights principles. Similar constraining appeals to a narrowly defined sense of cultural and territorial nationalism were made by Hispanic elites in Guatemala when they felt threatened by network influence.

The process of institutionalising human rights protections in the PRC may have stalled in the same way. It is axiomatic that Beijing has elevated cultural and territorial nationalism as a means of generating legitimacy for itself in the wake of economic reform and the marginalisation of communist ideology. This does not mean that external pressure cannot effect change in the PRC, but it does call into question the efficacy of shaming.

It appears that Beijing has been successful in arousing patriotic responses to perceived threats and to the erosion of national cultural values. It is also evident that domestic opposition to the leadership of the Chinese Communist Party (CCP) is weak. In this context, it is easy to see how external efforts to shame the PRC government may fall short of their aim.

Does shame lead to progress?

Certainly, advocates of human rights have been frustrated in their inability to find powerful levers to use against the government of the PRC. Perhaps the problem is one of expectations:

By 1993, China had experienced fifteen years of rapid ... economic growth. In other countries ... economic growth has usually had a positive impact on human right ... China, some say, should have followed suit. Why was this not the case? ... China has also been under much more scrutiny about its human rights situation than before 1989. And there has been considerable outside pressure ... to improve. Outside

concern and pressure have evoked positive change in other countries. Again, why not [in] China?⁷²

Approaching an answer to these questions, one is tempted, first, to revisit the pre-supposition. Did the progress observed in other states always result from external efforts to shame? If so, then one is justified in wanting to understand why shaming pressure has not had the same effect in the PRC. It is possible, of course, that the pressure has had an effect but that the scope of the PRC's problems are so vast that the effects are dwarfed by the work left undone. That is, 'in the protection of "human rights," there is "an extreme time lag" between undertaking and performance'.⁷³ So, external pressure may have resulted in marginal adjustments in Beijing's attitudes which are seeds of change that have yet to sprout.

Beyond that, one must also consider that an approach that succeeds in one place may be ill-suited to evoking the same response in another. It is not necessarily the case that one method is equally effective against all regimes. Nor is it clear that the application of pressure will have the same effect at any moment it is applied. Here, the findings of Risse and Sikking are most instructive. They found that in states where the 'domestic opposition is still too weak to be able to mount a major challenge to the regime ... the transition to the third phase constituted the biggest challenge for the transnational human rights network'. To push a state to that stage, there must not only be external pressures, but pressure from domestic sources as well.⁷⁴

In the case of the PRC, it is conceivable that:

1. Having made a transition from totalitarianism to authoritarianism the regime is still relatively uneasy about preserving its legitimacy, so is eager to preserve domestic order and reluctant to introduce potentially destabilising freedoms.⁷⁵
2. Succession politics in the lead-up to the 2002 16th National People's Congress have led to a certain timidity of authorities to liberalise.⁷⁶
3. China's history of succumbing to imperialism has inured the leadership to 'humiliation' from abroad, especially from those states that had previously infringed China's sovereignty.
4. The vastness of the population in China makes it difficult to establish effective internal networks of opposition that may benefit from the support offered by external advocates of reform.
5. Economic growth is uneven, so what appears to be significant development is, in fact, limited to a small segment of the population—China has yet to achieve the level of growth necessary to lift enough boats—so popular demand for more extensive rights has yet to increase significantly.

In the end, it is also probably true that 'secure and stable government is more likely to extend political rights to the people than a threatened and unstable regime'.⁷⁷ For that reason among others, it seems unlikely that the government of the PRC would wish to be seen giving in to outside pressure. Indeed, what government would blithely undertake significant changes in its legal and social order on demand from abroad? While doing so may help to alleviate the pressure from abroad, the leadership would have to justify its acquiescence at home in

order to maintain its legitimacy.

Such undertakings are likely to occur when the leaders of a state perceive some benefit from succumbing to the external pressure. The benefit may be tangible or not. The benefit may be an enhancement, as with trade or commercial opportunities, or a relief from the threat of harm, as with the lifting of sanctions. The benefit may even be perceptual, as in the case of elevated status or prestige within a certain community of states. As Andrew Nathan has observed, the leaders of the PRC are realists who understand how to bargain and how to use demands that they improve human rights as a way to get from foreign states what they want.⁷⁸

What is it, then, that the PRC wants? Among many 'goods', Beijing appears to seek freedom from foreign-imposed limitations. It seems that Beijing is prepared to sacrifice a degree of international prestige for the sake of sovereignty. International prestige may enhance the legitimacy of the PRC regime, but sovereignty is vital. Liu Huaqiu's address to the Vienna World Conference on Human Rights in 1993 emphasises, among other points, that:

To wantonly accuse another country of abuse of human rights and impose the human rights criteria of one's own country or region on other countries or regions are tantamount to an infringement upon the sovereignty of other countries and interference in the latter's internal affairs, which could result in political instability and social unrest in other countries.⁷⁹

Although Liu does not elaborate his view of why accusations of abuse are tantamount to an infringement of sovereignty or how they might lead to instability or unrest, it is worth considering the sentiment embodied in his statement. Liu does not seek to refute the accusation *per se*, but to question the authority of the accuser. This seems a product of indignation more than shame. Elsewhere in his statement, Liu admits the need to have international discussions about human rights, but asserts that these 'should be conducted in the spirit of mutual respect and on an equal footing'.⁸⁰

The Republic of Korea's then foreign minister, Han Sung-joo, put it differently. Taking a balanced view between the universalist and the cultural relativist, Han stated that, 'a simplistic and self-righteous approach to the issue of human rights could be counterproductive by provoking another powerful human sentiment, namely, nationalism'.⁸¹ This is worth considering. If shaming simply arouses a sense of defiance and nationalism, it may not be as effective a mode of pressuring Beijing as using Beijing's own ambitions against it. That is, when international organisations or bilateral partners can hold 'hostage' something that Beijing is known to want, then the demand for specific actions by the PRC to improve human rights becomes a matter of routine international bargaining.

One can understand, however, why proponents of human rights are not prepared to give up shaming those governments from which they seek change. Mullerson, for example, writes:

Every such act of pressure obviously hurts the pride of national leaders and therefore the immediate reaction is often negative ... more important than the immediate reaction are long term developments.⁸²

Of course, here is the problem of cause and effect. It is still difficult to determine whether long-term developments towards the protection of human rights are an outgrowth of the pressure and embarrassment inflicted on the abusive regime, or are the result of domestic voices that would demand to be heard, as in Taiwan, even without the encouragement of people outside the state.

Nathan believes that pressure from abroad did, in fact, have an effect in the PRC. However, he writes that:

Foreign pressure would not have been as effective as it was if it did not push in the same direction as internal forces. By the same token, the internal forces for change might not have moved China as fast as they did without the support of outside actors.⁸³

Nathan rejects the idea that the PRC is not susceptible to outside pressure on the grounds that it must preserve ‘face’ after frequent infringements of its sovereignty. The PRC has accepted that human rights are part of the landscape of the international arena. Nathan is probably correct that ‘China has behaved as a realist power, making concessions it perceived as necessary to influence states with which it was interacting and not making them when they were not seen as necessary’.⁸⁴

In the end, though, far more effective than any outside pressure are the popular demands for change, backed by a willingness to sacrifice blood, if need be, to force the regime to crack. The diplomacy of shaming may, in the midst of such a battle, encourage those domestic forces that are fighting to expand the realm of human rights. As with any reform, what is possible depends on the role and influence of reformers within the regime compared with the role and influence of those who resist reform. If those who resist reform are more powerful than the reformers, then it is difficult to imagine any pressure—domestic or foreign—having its desired effect. At moments when the resisters are unable to prevent reform, however, then pressure from abroad or at home may be useful.

The reason why one needs to be concerned about the arousal of nationalistic defiance in response to foreign efforts to shame the PRC is that the very foreignness of the effort may strengthen the arguments made in policy discussions to resist liberalisation and expansion of rights. It may also diminish the moral authority of those would-be reformers in Beijing as well as in China’s police substations, prisons and labour camps. In this way, what are well intended efforts to shame on behalf of a moral objective may have counterproductive effects that actually impede those who might, otherwise, be able to take positive measures to improve human rights.

Notes

¹ A principal point of disagreement between the PRC and its critics is whether the norms critics advocate are, indeed, ‘universal’ or whether they reflect a distinct set of ‘Western’ values. This led to dispute in the 1990s as Asian states proposed that they, too, esteemed human rights, but in a way that reflects their own ‘Asian values’. The touchstone of this view is the Bangkok Protocol of 1993, in which the PRC and other states articulated a view of human rights from their own perspective.

² Other strategies have also been employed as a way to advance human rights in the PRC. Efforts to persuade, cajole or bargain with the leadership of the PRC to elicit compliance with international

norms have taken place with little public fanfare to express the seriousness with which some foreign interlocutors regard the humane treatment of people in China. It is worth considering whether these efforts have been more or less successful in promoting human rights than have the more confrontational approaches.

³ The US Department of State annual report on human rights for 1999 reviews in detail the reports of abuse in the PRC. In the introductory passages of the section pertaining to the PRC, it states, in part:

The Constitution and laws provide for fundamental human rights; however, these protections often are ignored in practice. Abuses included instances of extrajudicial killings, torture and mistreatment of prisoners, forced confessions, arbitrary arrest and detention, lengthy incommunicado detention, and denial of due process. Prison conditions at most facilities remained harsh. In many cases, particularly in sensitive political cases, the judicial system denies criminal defendants basic legal safeguards and due process because authorities attach higher priority to maintaining public order and suppressing political opposition than to enforcing legal norms. The Government infringed on citizens' privacy rights. The Government tightened restrictions on freedom of speech and of the press, and increased controls on the Internet; self-censorship by journalists also increased. The Government severely restricted freedom of assembly, and continued to restrict freedom of association. The Government continued to restrict freedom of religion, and intensified controls on some unregistered churches. The Government continued to restrict freedom of movement. The Government does not permit independent domestic non-governmental organizations (NGOs) to monitor publicly human rights conditions. Violence against women, including coercive family planning practices—which sometimes include forced abortion and forced sterilization; prostitution; discrimination against women; trafficking in women and children; abuse of children; and discrimination against the disabled and minorities are all problems. The Government continued to restrict tightly worker rights, and forced labor in prison facilities remains a serious problem. Child labor persists. Particularly serious human rights abuses persisted in some minority areas, especially in Tibet and Xinjiang, where restrictions on religion and other fundamental freedoms intensified.

United States Department of State, Bureau of Democracy, Human Rights and Labor, *1999 Country Reports on Human Rights*, Washington, DC: 25 February 2000, as reproduced at http://www.state.gov/www/global/human_rights/1999_hrp_report/china.html.

⁴ John F Cooper & Lee Ta-ling, *Coping With a Bad Global Image: Human Rights in the People's Republic of China, 1993–1994*, Lanham, MD: University Press of America, 1997, p 203.

⁵ There are a number of non-governmental organisations that have issued critical reports concerning the continued abuse of human rights in the PRC. Among them, Amnesty International stated in its annual report of 2000:

1999 saw the most serious and wide-ranging crack-down on peaceful dissent in China for a decade. Thousands of people were arbitrarily detained for peacefully exercising their rights to freedom of expression, association or religion. Some were sentenced to long prison terms under draconian national security legislation and after unfair trials; others were assigned without trial to up to three years' detention in 're-education through labour' camps. Torture and ill-treatment of prisoners were widespread. Thousands of people were sentenced to death and many executed. In the autonomous region of Tibet and Xinjiang those suspected of nationalist activities or sympathies continued to be the targets of particularly harsh repression.

See 'China, including Hong Kong and Macao', *Amnesty International Annual Report of 2000* as reproduced at <http://www.web.amnesty.org>.

⁶ Anne Kent, *China, The United Nations, and Human Rights: The Limits of Compliance*, Philadelphia, PA: University of Pennsylvania Press, 1999, p 247.

⁷ *Ibid*, p 9.

⁸ Wang Jisi, 'Go ahead—blame China', *Los Angeles Times*, 4 April 1999 as reproduced at <http://www.taiwansecurity.org/News/LAT-990404.htm>.

⁹ Rein Mullerson, *Human Rights Diplomacy*, London: Routledge, 1997, pp 122–123.

¹⁰ Thomas Risse & Kathryn Sikkink write that advocacy networks:

serve three purposes, which constitute necessary conditions for sustainable domestic change in the human rights area:

(1) They put norm-violating states on the international agenda in terms of moral consciousness-raising. In doing so, they also remind liberal states of their own identity as promoters of human rights.

(2) They empower and legitimate the claims of domestic opposition groups against norm-violating governments, and they partially protect the physical integrity of such groups from government repression. Thus, they are crucial in mobilizing domestic opposition, social movements, and non-governmental organizations (NGOs) in target countries.

(3) They challenge norm-violating governments by creating a transnational structure pressuring such regimes simultaneously 'from above' and 'from below'. The more these pressures can be sustained, the fewer options are available to political rulers to continue repression.

Risse & Sikkink, 'The socialization of international human rights norms into domestic practices: introduction', in Thomas Risse, Stephen C Ropp & Kathryn Sikkink (eds), *The Power of Human Rights: International Norms and Domestic Change*, Cambridge: Cambridge University Press, 1999, p 5.

¹¹ See Human Rights Watch/Asia at <http://www.hrw.org/about/about.html>.

¹² Andrew Hurrell, 'Power, principles and prudence: protecting human rights in a deeply divided world', in Tim Dunne & Nicholas J Wheeler (eds), *Human Rights in Global Politics*, Cambridge: Cambridge University Press, 1999, p 289.

¹³ Andrew Nathan, 'China and the international human rights regime', in Elizabeth Economy & Michel Oksenberg (eds), *China Joins the World: Progress and Prospects*, New York: Council on Foreign Relations, 1999, p 139.

¹⁴ See the Human Rights in China web page at <http://www.hrhchina.org>.

¹⁵ Kent, *China: The United Nations and Human Rights*, pp 14, 79. The concept of 'reintegrative shaming' is drawn from John Braithwaite, *Crime, Shame, and Reintegration*, Cambridge: Cambridge University Press, 1989.

¹⁶ Kent observes that after the government of the PRC was seated at the United Nations in 1971 as the representative of China, 'the civil rights violations exacerbated by the onset of the Cultural Revolution continued unabated, but failed to draw international criticism'. Kent, *China, The United Nations, and Human Rights*, p 233.

¹⁷ *Ibid*, p 160.

¹⁸ Nathan, 'China and the international human rights regime', p 146.

¹⁹ Copper & Lee, *Coping With a Bad Global Image*, p 182.

²⁰ *Ibid*, p 183.

²¹ On 15 April 1999, the day after the Premier left the USA, Liu Xiaoming, Minister at the Embassy of the PRC in Washington, DC, recounted this at The Fletcher School of Law and Diplomacy at Tufts University.

²² 'Tibet flag raising in Canada reportedly led to threat of Zhu visit cancellation', Central News Agency, Taipei, 16 April 1999 as reported by BBC Monitoring Asia Pacific—Political, reproduced at web.lexis-nexis.com.; and Bill Graveland, 'Jeers, cheers, for China's premier', *The Gazette* (Montreal), 18 April 1999, p D7, as reproduced at web.lexis-nexis.com.

²³ James D Seymour, 'Human rights in Chinese foreign relations', in Samuel S Kim (ed), *China and the World: Chinese Foreign Policy Faces the New Millennium*, Boulder, CO: Westview Press, 1998, p 221.

²⁴ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', p 11.

²⁵ *Ibid*, p 22.

²⁶ *Ibid*, pp 22–23.

²⁷ *Ibid*, p 25.

²⁸ *Ibid*, p 29.

²⁹ The PRC has acceded to: (1) The Convention on Prevention and Punishment of the Crime of Genocide; (2) The Convention Relating to the Status of Refugees; (3) The Protocol Relating to the Status of Refugees; (4) The International Convention on the Elimination of All Forms of Racial Discrimination; (5) The Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment; (6) The International Convention on the Rights of the Child; (7) The Convention Concerning Equal Remuneration for Men and Women Workers for Work of Equal Value. It has also signed, but not ratified: (8) The International Convention on Civil and Political Rights; (9) The International Covenant on Economic, Social and Political Rights. See Nathan, 'China and the international human rights regime', p 136. 'The PRC ultimately ratified the International Covenant on Economic, Social and Cultural Rights in February 2001.'

³⁰ Mullerson, *Human Rights Diplomacy*, p 35.

³¹ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', p 10.

³² *Ibid*, pp 32–33.

³³ *Ibid*, p 15.

³⁴ David Weisbrodt, 'The contribution of international non-governmental organizations to the protection of human rights', in T Meron (ed), *Human Rights in International Law: Legal and Policy Issues*, Vol 2, Oxford: Clarendon Press, 1984, p 411, as cited in Mullerson, *Human Rights Diplomacy*, p 144.

³⁵ Mullerson, *Human Rights Diplomacy*, p 109.

³⁶ *Ibid*, p 181.

- ³⁷ 'Chinese Premier Zhu Rongji reflects on US–Chinese relations', CNN LIVE EVENT/SPECIAL 22:30pm ET, 13 April 1999; Tuesday 10:30pm Eastern Time, Transcript #99041312V54, as reproduced at Lexis/Nexis.
- ³⁸ Andrew Nathan & Robert Ross, *The Great Wall and the Empty Fortress: China's Search for Security*, New York: WW Norton, 1997, pp 184–185.
- ³⁹ James Hsiung notes that this paradox also applies to Taiwan and South Korea, which were 'much worse off economically (and, indeed, worse in their human rights records, too) in the 1950s and 1960s than they are today [in the 1980s]. Yet, more criticism of their human rights records has been heard in recent years than before.' Hsiung, *Human Rights in East Asia*, p 17.
- ⁴⁰ Copper & Lee, *Coping With a Bad Global Image*, p 1.
- ⁴¹ Zhou Wei, 'The study of human rights in the People's Republic of China', in James T H Tang (ed), *Human Rights and International Relations in the Asia Pacific*, London: Pinter, 1995, p 93, n 1; and Nathan, 'China and the international human rights regime', p 146.
- ⁴² Copper & Lee, *Coping With a Bad Global Image*, pp 8–9.
- ⁴³ Nathan & Ross, *The Great Wall and the Empty Fortress*, p 188.
- ⁴⁴ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', p 23; Kent, *China, the United Nations, and Human Rights*, p 50.
- ⁴⁵ Copper & Lee, *Coping With a Bad Global Image*, p 180.
- ⁴⁶ Mely Caballero-Anthony, 'Human rights, economic change and political development: a southern Asian perspective', in Tang, *Human Rights and International Relations in the Asia Pacific*, p 39.
- ⁴⁷ Zhou Wei, 'The study of human rights in the People's Republic of China', in Tang, *Human Rights and International Relations in the Asia Pacific*, pp 84–86.
- ⁴⁸ *Ibid.*, pp 86–91. See also Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', pp 23–24.
- ⁴⁹ Nathan, 'China and the international human rights regime', p 146.
- ⁵⁰ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', p 24.
- ⁵¹ Thomas Robinson, 'Chinese foreign policy from the 1940s to the 1990s', in Thomas Robinson & David Shambaugh (eds), *Chinese Foreign Policy: Theory and Practice*, Oxford: Oxford University Press, 1994, p 599.
- ⁵² Nathan, 'China and the international human rights regime', pp 148–149.
- ⁵³ *Ibid.*
- ⁵⁴ 'White Paper—Fifty Years of Progress in China's Human Rights', The State Council Information Office of the People's Republic of China', February 2000, Beijing; 'White Paper—Progress in China's Human Rights Conditions in 1998', Information Office of the State Council of the People's Republic of China', 13 April 1999; 'White Paper—Progress in China's Human Rights Cause in 1996', Information Office of the State Council of the People's Republic of China', 31 March 1997; and 'White Paper—The Progress of Human Rights in China', Information Office of the State Council of the People's Republic of China', December 1995, Beijing, as reproduced at <http://www.china-embassy.org>. The first white paper was published by the Information Office of the State Council in October 1991.
- ⁵⁵ 'White Paper—Fifty Years of Progress in China's Human Rights'.
- ⁵⁶ It should not escape attention that there is in Confucian thought a counterpart to the 'golden rule' of Judaic and Christian theology. Confucius said in several different ways, 'Do not do to others what you do not want them to do to you'. See *Analects*, 12:2 as cited in Chan Wing-tsit, trans and comp, *A Sourcebook in Chinese Philosophy*, Princeton, NJ: Princeton University Press, 1963, p 39.
- ⁵⁷ See, for instance, Jack Donnelly, 'Human rights, democracy, and development', *Human Rights Quarterly*, 21, 1999, pp 612ff for an analysis of the source of human rights in contemporary international relations.
- ⁵⁸ Mullerson, *Human Rights Diplomacy*, p 73ff.
- ⁵⁹ 'White Paper—Fifty Years of Progress in China's Human Rights'.
- ⁶⁰ Hsiung, *Human Rights in East Asia*, p 6.
- ⁶¹ Tai Hung-chao, 'Human rights in Taiwan: convergence of two political cultures?', in Hsiung, *Human Rights in East Asia*, p 88.
- ⁶² Zhao Haiqing, president of the National Committee on Chinese Affairs speaking before the US Congressional Human Rights Caucus, as cited in Copper & Lee, *Coping With a Bad Global Image*, p 159. On 20 February 1994, Asia Watch released a report entitled 'Detained in China and Tibet' in which it concluded that 'prisoners are released in a timely fashion for maximum political effect in what is called "hostage politik" ... In short, it suggested that the West is duped into believing there are better human rights conditions in China'. Cited in Copper & Lee, *Coping With a Bad Global Image*, pp 180–181.
- ⁶³ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices',

p 10.

⁶⁴ Nathan & Ross, *The Great Wall and the Empty Fortress*, p 190.

⁶⁵ Copper & Lee, *Coping With a Bad Global Image*, pp 4–5.

⁶⁶ *Ibid*, p 5.

⁶⁷ Nathan & Ross, *The Great Wall and the Empty Fortress*, pp 190–191.

⁶⁸ Copper & Lee, *Coping With a Bad Global Image*, p 188.

⁶⁹ President Jimmy Carter's administration used quiet diplomacy that 'helped bring about the release of certainly hundreds of political prisoners and has ameliorated the conditions of detention of many more. These are real and important achievements, but they have little or no impact on the general human rights situations in these countries and rarely can be expected to lead to further progress.' Jack Donnelly, *Universal Human Rights in Theory and Practice*, Ithaca, NY: Cornell University Press, 1989, p 243.

⁷⁰ Well intentioned lawmakers in the USA have repeatedly sought to use economic carrots and diplomatic sticks to encourage compliance with a view of human rights. The efforts of Senator Henry Jackson and Charles Vane in the 1970s to hold out the possibility of MFN status to the Soviet Union in exchange for the release of Jews, Baltic, and Baptist people seeking to emigrate did not work. US president Bill Clinton discovered the flaw in the linkage logic all over again when he came to office in 1993. Mullerson, *Human Rights Diplomacy*, p 106.

⁷¹ Thomas Risse & Stephen C Ropp, 'International human rights norms and domestic change: conclusions', in Risse *et al.* *The Power of Human Rights*, p 277.

⁷² Copper & Lee, *Coping With a Bad Global Image*, p 201.

⁷³ Kent, *China, the United Nations, and Human Rights*, p 247.

⁷⁴ Risse & Sikkink, 'The socialization of international human rights norms into domestic practices', p 24.

⁷⁵ Copper & Lee, *Coping With a Bad Global Image*, pp 201–202.

⁷⁶ *Ibid*.

⁷⁷ Tai, 'Human rights in Taiwan', p 99.

⁷⁸ Nathan, 'China and the international human rights regime', p 159.

⁷⁹ 'Statement by Liu Huaqiu, Head of the Chinese Delegation, Vienna, 17 June 1993', in Tang, *Human Rights and International Relations in the Asia Pacific*, pp 213–217.

⁸⁰ *Ibid*, p 216.

⁸¹ 'Statement by Han Sung-joo, Minister of Foreign Affairs of the Republic of South Korea, Vienna, 15 June 1993', in Tang, *Human Rights and International Relations in the Asia Pacific*, p 220.

⁸² Mullerson, *Human Rights Diplomacy*, p 113.

⁸³ Nathan, 'China and the international human rights regime', p 151.

⁸⁴ *Ibid*, p 159.

Author's notes

As this goes to press, the PRC ratified the International Covenant on Economic, Social and Cultural Rights, the US Department of State issued its Annual Report on Human Rights for 2000, and the PRC released a report decrying human rights abuses in the United States.

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