

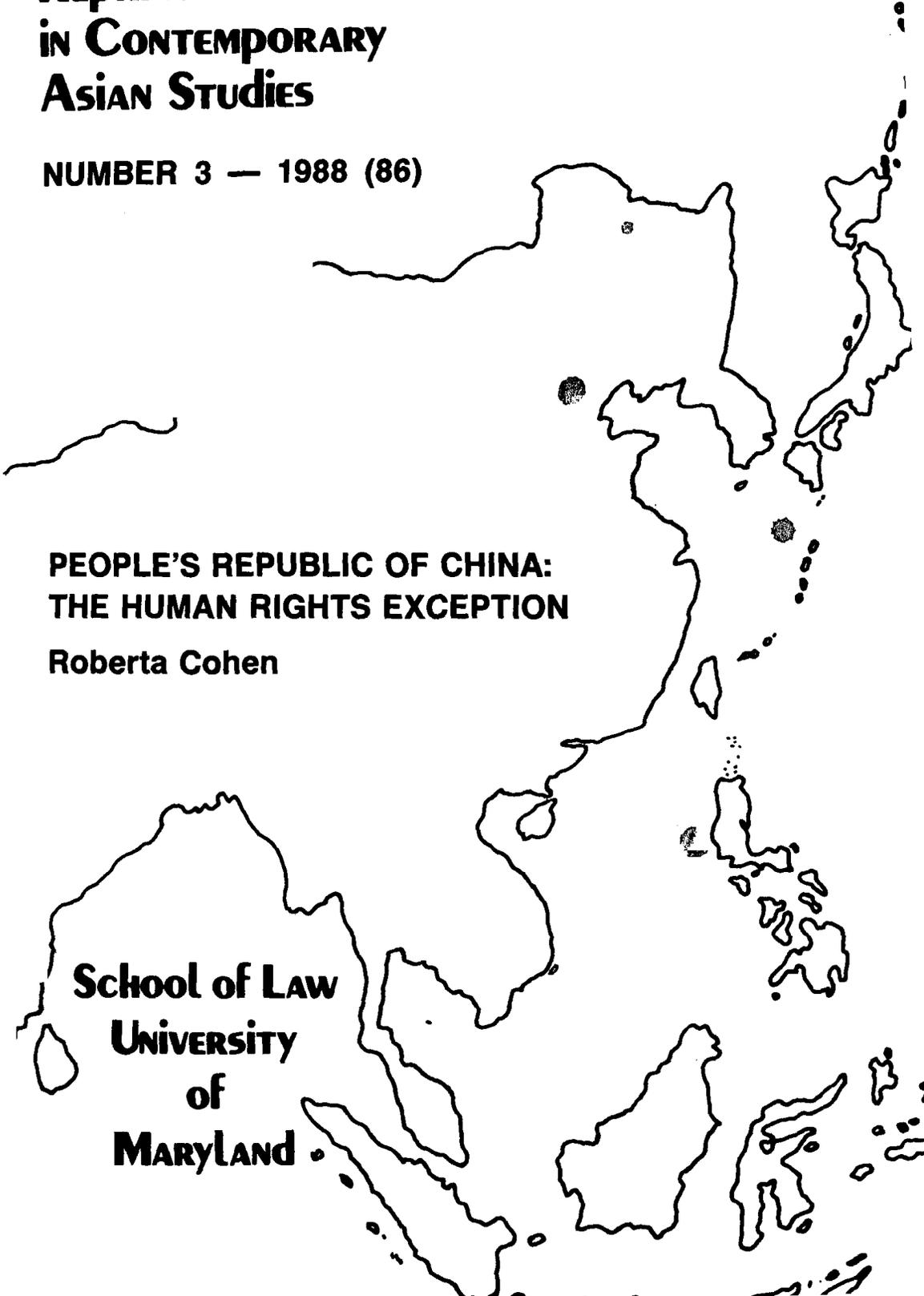
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**PEOPLE'S REPUBLIC OF CHINA:  
THE HUMAN RIGHTS EXCEPTION**

**Roberta Cohen**

**School of LAW  
UNIVERSITY  
of  
MARYLAND**



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# PEOPLE'S REPUBLIC OF CHINA: THE HUMAN RIGHTS EXCEPTION

*Roberta Cohen*

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## INTRODUCTION

In the late 1970s, following Mao Zedong's death and the arrest of the Gang of Four, Chinese officials began to bring to light the terrible excesses of the Cultural Revolution (1966–1976) and the “anti-rightist” campaign (1957–1958). China's new leaders promised rehabilitation for all those wrongfully persecuted.

During the Cultural Revolution, hundreds of thousands, even millions of Chinese suffered intense persecution and public abuse. Many were subjected to brutal beatings, torture, imprisonment, forced labor, internal exile, or executions, often carried out by mobs under the leadership of Red Guards or party cadres sanctioned by the government. Those victimized were predominantly the educated, those with higher education and professional skills, teachers, writers, scientists, doctors, industrial managers, as well as local and national officials and minority and religious leaders. They were denounced and publicly humiliated for having “bourgeois” sympathies, “feudal” tendencies, “old ideas,” supporting the capitalist road, or being “counterrevolutionary,” “rightist,” or “revisionist.”

China's post-Mao leader Deng Xiaoping told the media that nearly one million people had died by mob action under the rule of the Gang of Four.<sup>1</sup> The president of China's Supreme Court similarly admitted that large numbers of Chinese had been wrongfully imprisoned.<sup>2</sup> The Chinese press reported that many of the verdicts on the 1.13 million people convicted between 1966 and 1976 had been unjustified, and that many individuals had been “persecuted to death.”<sup>3</sup> Some officials called the Cultural Revolution “a disaster without precedent in five thousand years of culture.” It was

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1. Statement of Charles W. Freeman in House Committee on Foreign Affairs, *Human Rights in Asia: Communist Countries: Hearings before the Subcommittees on Asian and Pacific Affairs and on International Organizations*, 96th Cong., 2d sess., 1980, Committee Print, 44 [hereafter cited as 1980 Hearings].

The Gang of Four, a group of radical leftists composed of Jiang Qing (Mao Zedong's wife), Zhang Chunqiao, Wang Hongwen, and Yao Wenyuan, took over the leadership of the country during the last years of Mao's rule. The excesses of the Cultural Revolution have generally been blamed on them and their associates, although countless others were also involved. After Mao's death, the Gang was arrested and held without trial for four years, and then were sentenced for “criminal” acts. Two received suspended death sentences; one, life imprisonment; and one a twenty-year term. See David Bonavia, *Verdict in Peking: The Trial of the Gang of Four*, (New York: G.P. Putnam's Sons, 1984).

2. *Amnesty International Report 1979* (London: Amnesty International Publications, 1979), 87.

3. Statement of James D. Seymour in 1980 Hearings, note 1 above, 134; see also R. Randle Edwards, Louis Henkin, and Andrew Nathan, *Human Rights in Contemporary China* (New York: Columbia University Press, 1986), 169, n. 36; *Amnesty International Report 1980* (London: Amnesty International Publications, 1980), 193; Bonavia, note 1 above, 179–202.

estimated that altogether 100 million people had suffered political persecution.<sup>4</sup> The Chinese also denounced the human rights abuses of an earlier period, the "anti-rightist" campaign, during which hundreds of thousands of intellectuals (high school and university graduates) were branded the "stinking ninth category" for their "bourgeois" and "rightist" tendencies. Most suffered arrest, demotion, internal exile, or death.<sup>5</sup>

This unprecedented public airing by the Chinese of the massive cruelty and persecution of their past stood in sharp contrast to the near silence of the international community while these abuses were taking place. To be sure, the People's Republic of China (PRC) had been denounced in the West, particularly in the United States, by those who were bitter over the "loss" of China and saw the communist regime's triumph in 1949 as a threat to Western security interests. But when it came to the egregious violations that occurred, particularly during the Cultural Revolution, the PRC seemed to be accorded a peculiar immunity. No systematic or serious effort was made by governments or human rights organizations to call the PRC to account or even to document its abuses. No detailed analysis of China's human rights record appeared. China was admitted to the United Nations at the very height of the violence of the Cultural Revolution. Freedom House, a New York-based nongovernmental organization (NGO), one of the few which at times issued warnings about China, published in 1976 the harrowing testimony of an escapee, who observed that "a conspiracy of silence surrounds the Death Archipelago of China."<sup>6</sup>

In fact, it was the Chinese by their own public admissions who called forth the first governmental comment on their human rights practices. China's shocking revelations about the Cultural Revolution evoked a response from the Carter administration. Although the Carter administration made human rights a hallmark of its foreign policy, for its first two years in office it scrupulously avoided public reference to China's human rights practices. But China's admissions of its own violations forced the administration's

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4. See "Ye Jianying (Communist Party Deputy Chairman) on Cultural Revolution," Xinhua (New China News Agency), No. 092905, 29 September 1979; "Resolution on Certain Questions in the History of our Party Since the Foundation of the People's Republic of China," adopted by the 11th Central Committee of the Communist Party of China, Xinhua, 30 June 1981; Jonathan Mirsky, "Long Look at Mao's Role," *Observer News Service*, No. 41727, London, 27 July 1981; Fox Butterfield, *China: Alive in the Bitter Sea* (London: Hodder & Stoughton, 1982), 471-473; Merle Goldman, "Human Rights in the People's Republic of China," *Daedalus* 112 (Fall 1983): 116.

5. See Arlette Laduguie, "China-Victims Old and New," *Index on Censorship* 10 (April 1981): 7-10; Michael Weisskopf, "Ex-Inmate Recalls Life in China's Gulag," *Washington Post*, 12 February 1982, 1, col. 2, sec. A.

6. "Escape to an Adjacent Cell," *Freedom at Issue*, New York, September-October 1976. See also *Freedom at Issue*, November-December 1975 and March-April 1977, for reports on human rights violations during the Cultural Revolution.

hand. At the end of 1978, it issued a public statement on human rights in China, the first by a Western government. The statement, however, was cautious and bland—it limited itself to welcoming Chinese admissions of abuses and expressing the hope for further improvement.<sup>7</sup> It reflected a continuing hesitancy to take issue with China over human rights, mirroring the reluctance of most others in the international community to call attention to human rights violations in China.

Nor was significant attention focused on China's human rights record thereafter. Other states—the communist countries in Eastern Europe and Third World regimes friendly to the West—saw their violations increasingly exposed before world opinion, especially in the 1970s when international human rights became a publicized issue. The Chinese, however, continued, with a few notable exceptions, to enjoy an inexplicable immunity. Amnesty International and to a lesser extent other NGOs did enter the field, particularly when China's Democracy Movement (1978–1981) was suppressed and scores of dissidents, writers, and human rights advocates were beaten, imprisoned, or forced to undergo re-education through labor under harsh conditions.<sup>8</sup> And by the 1980s, the PRC did find itself under scrutiny for the first time by governments, NGOs, and the media. In part, this was the natural and logical outcome of its normalization of relations with the outside world. But the change was hardly far-reaching. The PRC did not then, nor does it today, figure prominently in the programs of NGOs, international organizations, governments, or professional groups working to promote human rights. It is even reported that Deng Xiaoping told his colleagues in 1987 that foreigners were not interested in China's human rights record. "Look at Wei Jingsheng," he said, "we put him behind bars and the democracy movement died. We haven't released him, but that did not raise much of an international uproar." He consequently did not think China's 1987 crackdown on intellectuals would arouse much concern either.<sup>9</sup>

The purpose of this article is to examine why China has been treated so gingerly by those concerned with international human rights, despite the atrocities of the Cultural Revolution and the continuing serious violations today. The article is divided into two parts. The first identifies the reasons why those concerned with human rights have avoided China. The second part addresses developments now taking place that make it more possible to deal with China and that rebut the arguments advanced to justify inaction.

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7. See State Department Press Guidance, 28 November 1978; "China Commended for Acknowledging Past Rights Abuses," *Washington Post*, 29 November 1978, sec. A.

8. For initiatives of Freedom House, the Fédération Internationale des Droits de l'Homme (Paris) and other groups, see Part II, "NGOs Point the Way." For a full discussion of Democracy Movement, see Part II, "Relevance of International Human Rights to China."

9. Edward Gargan, "Deng Breaks Silence," *International Herald Tribune*, 14 January 1987; see also Daniel Southerland, "Deng Hails Poland's Handling of Dissent," *International Herald Tribune*, 27 February 1987.

If the United States refusal to recognize the PRC after 1949 was one of the great blunders of our time, so too must be the exemption of China from the international human rights standards applicable to other nations. China's population numbers over a billion people, one-quarter of the world's population. Since 1971 it has come to play an increasingly active role in the United Nations decisionmaking on human rights. Its government has ratified several important human rights treaties, thereby signalling some readiness to be held responsible for its human rights practices. China has opened its doors to the outside world and made itself more accessible to the ideas and influences of others. Nevertheless, its people remain largely exempt from the concerns of the international human rights community, and its government, unlike others, is rarely held accountable for its human rights transgressions.

## **PART I. EXEMPTION FROM INTERNATIONAL ACCOUNTABILITY – THE REASONS**

### **The Information Gap**

Paucity of information has been one of the major reasons cited by those in the human rights field who have refrained from publishing reports or issuing statements on human rights in China. Until the mid or late 1970s, foreigners had little or no access to most parts of the country, diplomats and tourists were restricted, and few journalists or academics were allowed entry to travel. It was difficult for NGOs to know precisely what was going on in the country. The Chinese Government did not publish facts or figures on human rights conditions. Because contacts with foreigners were deemed almost treasonous, Chinese citizens provided scant information to visitors from abroad. Even Chinese diplomats stationed in foreign countries travelled in twos, monitoring each other's dealings with foreigners. Few Chinese scholars or students were allowed to travel or study abroad. Information on China, therefore, came from whatever data government-controlled media did release or from those foreigners who managed to gain firsthand information.<sup>10</sup> In the case of the many foreigners allowed entry for the first time in the early 1970s, most painted unwarrantedly favorable pictures of what they saw and failed to uncover the massive violations of the Cultural Revolution.

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10. See House Committee on International Relations, *Human Rights Conditions in Selected Countries and the U.S. Response*, 95th Cong., 2d sess., 1978, Committee Print, 184-186; Nigel Wade, "How Much Has China Changed," *Sunday Telegraph*, 8 April 1980.

Human rights reporting about China as a result was much more tentative and qualified than about other countries. Amnesty International could not secure “hard” information about prisoners in China until the late 1970s. During the Cultural Revolution, Amnesty could obtain information only on foreign nationals detained in the PRC. It relied heavily on official sources to produce its first report in 1978, *Political Imprisonment in the People’s Republic of China*. The introduction to the report cautioned that because of inadequate information, the report could not “present a picture of the conditions of detention prevailing in the whole of the country. . . .”:

The lack of detailed information on political imprisonment in the People’s Republic of China is due to . . . the size and diversity of the country, the complexity of the issues involved in the handling of political offenders, the restriction of movement and the lack of free access to information.<sup>11</sup>

Similarly, Freedom House, which began in the late 1970s to publish the writings of Chinese dissidents, listed eighty-two Chinese unofficial journals but noted, “It is evident that we do not know the real extent of underground publication in China. . . .”<sup>12</sup> Its annual survey of freedom around the world reported “unknown thousands of political prisoners” in the PRC.<sup>13</sup>

In the State Department’s first testimony before Congress on human rights in China in 1980, the Assistant Secretary of State for Human Rights pointed out that only “incomplete” information was available. “What we know,” Patricia Derian said, “documents serious human rights problems,” but “we do not know the full extent to which human rights are denied”:

Our normal sources of information – our diplomats, the media, government statements or reports, assessments of, national, international or regional organizations, reports of individuals and nongovernmental organizations, are limited or nonexistent. . . . Our Embassy in Beijing, which opened in 1979, reports on human rights conditions in the People’s Republic of China. That country is vast and our Embassy staff lacks both the numbers of personnel and the access to all parts of the PRC necessary to prepare the kind of definitive, comprehensive survey of the subject we would like to see.

Access . . . by Western media and private individuals, particularly outside of capital cities, is also limited.<sup>14</sup>

The first State Department human rights report on China, also published in 1980, contained several disclaimers as well. It said that “an accurate estimate” of the total number of political prisoners in China was

11. *Political Imprisonment in the People’s Republic of China* (London: Amnesty International Publications, 1978) xii.

12. Freedom House, “Reports of Recent Events,” *Freedom Appeals* 10 (May-June 1981): 29.

13. Raymond D. Gastil, *Freedom in the World: Political Rights and Civil Liberties 1980* (New York: Freedom House, 1980), 230, and subsequent editions.

14. Statement of Patricia M. Derian in 1980 Hearings, note 1 above, 24–25.

"impossible." It could find "no accurate information" on whether PRC authorities were still using torture.<sup>15</sup>

Even after China opened its doors to the outside world and lifted restrictions on tourists and journalists, difficulties abounded. The brief period of liberalization permitted in China in 1978 and early 1979, characterized by wall posters, unofficial journals, and calls for "free speech" quickly came to an end by 1980 with the arrest of those advocating greater political freedoms. The end of the Democracy Movement also meant a tightening of the more relaxed contacts allowed with Chinese during that period. Human rights advocates found themselves imprisoned for having provided information to foreigners. Wei Jingsheng, China's foremost dissident, received a fifteen-year sentence both for his writings and for having provided what was deemed "military secrets" to foreign correspondents.<sup>16</sup> Liu Qing, editor of a leading unofficial journal, received a three-year sentence for making available the transcript of Wei Jingsheng's trial.<sup>17</sup> In 1979, firm restrictions were published prohibiting Chinese from meeting with foreigners unless officially approved.<sup>18</sup> Deng Xiaoping told senior members of the Communist Party that Chinese who had too many contacts with foreigners should be arrested, and in a number of cases they were.<sup>19</sup> He issued strict warnings as well to those Chinese "setting up illegal organizations, publishing illegal journals, spreading anti-party and anti-socialist sentiments and even establishing secret ties with one another."<sup>20</sup>

Warnings also were issued to journalists against reporting on human rights conditions. While the Chinese initially tolerated journalistic accounts of the violations of the past, they objected to stories about present abuses, namely the suppression of the Democracy Movement. Chinese officials in 1981 thus warned foreign correspondents against reporting on the "illegal

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15. Department of State, *Country Reports on Human Rights Practices for 1979* (Washington, D.C.: U.S. Government Printing Office, 1980), 440, 441.

16. *AI Report 1980*, note 3 above, 189-190.

17. *Amnesty International Report 1982*, (London: Amnesty International Publications, 1982), 193.

18. John Fraser, "Chinese Ordered to Avoid Contacts with Foreigners," *International Herald Tribune*, 5 June 1979; see also Nigel Wade, "Peking Crackdown on Careless Talkers," *Daily Telegraph* 8 June 1979; C.S. Wren, "As Party Forum Nears, China Reverts to Old Orthodoxy," *International Herald Tribune*, 2 August 1982; and M. Lucbert, "Les Autorités Multiplient Les Obstacles aux Contacts entre Chinois et Etrangers," *Le Monde*, 11 June 1982. For reports on the close scrutiny of contacts between Chinese and foreigners, see Liang Heng and Judith Shapiro, *Intellectual Freedom in China After Mao*, Fund for Free Expression, New York, 1984, 192-193; *Amnesty International Report 1985* (London: Amnesty International Publications, 1985), 205. Department of State, *Country Reports on Human Rights Practices for 1984* (Washington, D.C.: U.S. Government Printing Office, 1985), 737.

19. "Deng Said to Warn China about Laxity," *New York Times*, 23 March 1979, sec. A; see also Butterfield, *China: Alive*, note 4 above, 202.

20. Michael Weisskopf, "China Ends a Fling at Free Thinking," *Washington Post*, 23 March 1981, sec. A.

activities" of underground magazines. "[I]t is better not to report on such publications," asserted Vice Foreign Minister Zhong Xidong. He asserted that "there are people [i.e., dissidents] who would like to use our friends [i.e., correspondents] for their own inglorious activities. I just advise our friends here not to be taken in by others."<sup>21</sup>

The Chinese cracked down on journalists by expelling some who had wide contacts with dissidents, by reprimanding others for reporting on human rights activities, and by harassing and arresting still others.<sup>22</sup> One European journalist was abducted and forced to undergo a month of "re-education" in 1984. In 1986 the *New York Times* correspondent was arrested and expelled after travelling to remote parts of the country without authorization. An *Agence France Presse* reporter, known for his wide contacts with students and academics, was expelled in 1987 after being one of the first to report on student demonstrations.<sup>23</sup>

NGOs as a result have pointed out that access to human rights information in China remains fraught with danger despite its greater availability. Amnesty International noted that in 1982, several U.S. academics were expelled after trying to conduct research into social conditions and several Chinese students were arrested for allegedly furnishing them with "state secrets."<sup>24</sup> In 1980, the government republished a 1951 law, "Regulations on Guarding State Secrets," enumerating broad categories of information which cannot be revealed to foreigners.<sup>25</sup> Chinese officials as a result have remained reluctant to give out information. Several, moreover, have been arrested for divulging "secrets," so that most refuse to provide information on human rights to foreigners.<sup>26</sup> Despite repeated requests from Amnesty Inter-

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21. Michael Weisskopf, "China Bars Reporting on Dissidents," *Washington Post*, 2 September 1981, sec. A.
  22. See Stanley Oziewicz, "China's Rebuke to Reporter Seen as Signal," *Washington Post*, 23 September 1981, sec. A; James P. Sterba, "A U.S. Correspondent Admonished by China," *International Herald Tribune*, 22 September 1981; "Four Seized in Peking Pasting up Posters," *New York Times*, 5 April 1979, sec. A; Jonathan Mirsky, "China's Great Wall of Secrecy," *The Observer*, Sunday, 22 August 1982, sec. 1; Butterfield, *China: Alive*, note 4 above, 519.
  23. See Tiziano Terzani, "My 'Crimes' Against the Chinese State," *Wall Street Journal*, 10 July 1985; "China Frees & Expels N.Y. Times Correspondent," *International Herald Tribune*, 24 July 1986; Edward Gargan, "China Orders AFP Reporter to Leave," *International Herald Tribune*, 27 January 1987.
  24. *Amnesty International Report 1983*, (London: Amnesty International Publications, 1983), 193; see also, Sarah Burgess, "Black Gloves Had His Way," *International Herald Tribune*, 12 February 1987.
  25. See Butterfield, *China: Alive*, note 4 above, 518; "China Imposes Secrecy Law to Foil Spies," *The Times*, 12 April 1980, Overseas section; House Committee on Foreign Affairs, *Political Developments and Human Rights in the People's Republic of China: Hearings before the Subcommittees on Human Rights and International Organizations and on Asian & Pacific Affairs*, 99th Cong., 1st sess., 1985, Committee Print, 67-68, 81, 266-267 [hereafter cited as 1985 Hearings].
  26. See "The Press," *Speahrhead* 16 (Northern Winter 1982-1983): 22, "Peking Jails Editor Over Secrecy Leak," *International Herald Tribune*, 29 March 1982; *China: Violations of*

national, questions about prisoners and the judicial system have gone unanswered.<sup>27</sup> Nor have human rights experts, in that capacity, been allowed into China to make contacts or study conditions. No foreign observers have been permitted to attend political trials said to be "open to the public." Although journalists on rare occasions have been given access to select prisons,<sup>28</sup> the International Committee of the Red Cross has not been allowed to speak with prisoners or detainees. Local human rights groups or information networks – which formed in the late 1970s – have been barred from functioning.

Conditions therefore essential to NGOs for the effective collection of information have not fully developed in the case of China. Many gaps in information consequently prevail. One commentator recently highlighted the problem: "A chance statistic was recently tossed out by the New China News Agency: During the past two years, it reported, armed police squads patrolling large and medium-sized cities arrested about 170 'counterrevolutionaries.' Who are these people and what happened to them? No explanation was given."<sup>29</sup> An Amnesty International report of 1984 similarly noted that the organization's "information concerning prisoners of conscience often remained incomplete since no official information on prisoners was published."<sup>30</sup> Even educated guesses have not been possible. The State Department's 1985 human rights report on China used estimates of "labor camp" inmates ranging from 100,000 to ten million.<sup>31</sup> Similarly, estimates of those executed during the 1983 "anti-crime" campaign, in which counterrevolutionaries as well as common criminals were summarily tried and executed, ranged from 600 to 20,000.<sup>32</sup>

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*Human Rights* (London: Amnesty International Publications, 1984) 16–17; Hugh Davies, "China Courteously Curbs Hospitality for Journalists," *Daily Telegraph*, 24 October 1985; Fox Butterfield, "Hundreds of Thousands Toil in Chinese Labor Camps," *New York Times*, 3 January 1981, sec. A.

27. See *Political Imprisonment*, note 11 above, ix–x; *China: Violations*, note 26 above, 2.
28. See Paul Hollander, *Political Pilgrims: Travels of Western Intellectuals to the Soviet Union, China and Cuba 1928–1978* (New York: Oxford University Press, 1981), 339–343; *Political Imprisonment*, note 11 above, 100; Hugh Davies, "China's Rugged Labour Camps Cleanse Minds," *Daily Telegraph*, 29 August 1984; Michael Weisskopf, "China Gulag Tries to 'Save' the Wayward Through Labor," *International Herald Tribune*, 25 January 1983; J.F. Burns, "Chinese Prisons Filled by a 'Lost Generation,'" *International Herald Tribune*, 9–10 February 1985; Michael Weisskopf, "Chinese Make an About-Face in the March to Rehabilitation," *International Herald Tribune*, 31 May 1982; *China: Violations*, note 26 above, 5.
29. Miriam London, "China Mirages," *Freedom at Issue* (March–April 1986): 17.
30. *Amnesty International Report 1984* (London: Amnesty International Publications, 1984), 217–218.
31. Department of State, *Country Reports on Human Rights Practices for 1985* (Washington, D.C.: U.S. Government Printing Office, 1986), 740.
32. For estimate that 5,000 to 9,000 Chinese were executed between August 1983 and January 1984 and an additional 10,000 killed in 1984, see Statement of Hung-dah Chiu in 1985 Hearings, note 25 above, 67. For other estimates, see Department of State, *Country Reports on Human Rights Practices for 1983* (Washington, D.C.: U.S. Govern-

Imprecise data has discouraged many human rights organizations from devoting their resources to collecting and analyzing information on China. They have preferred instead to work on situations about which information is readily and amply available. Language has compounded the problem. Unlike other Asian and Third World countries where European foreign languages are spoken and human rights materials are published in these languages, those dealing with China must know Chinese. Even materials readily available from Hong Kong often require knowledge of Chinese. Learning the language or hiring the services of translators are costly and time-consuming undertakings for NGOs with limited resources. Consequently, Sinologists, rather than human rights organizations, have come to monopolize the study of and much of the activity on human rights in China. Perusal of the published materials of well-known NGOs in the human rights field, such as the International Commission of Jurists (Geneva), the Lawyers Committee for Human Rights (New York), the Parliamentary Human Rights Group (London), the International League for Human Rights (New York), and the International Human Rights Law Group (Washington), as well as others, reveals few, if any, references to human rights in China in the 1970s or 1980s. The information gap – or the belief in it – has been one of the most serious deterrents to human rights activity.

### Sheer Numbers

The difficulty of coping with the enormous numbers of Chinese victimized by their government also has discouraged many from taking up the issue of human rights in China. The scale of violations has been simply overwhelming. An anecdote illustrates the problem well. A *New York Times* correspondent during a 1977 visit to China reported that an official told him that “China is the country where human rights are best observed” because more than 95 percent of the people enjoy human rights. After making some quick numerical calculations, the journalist asked whether this meant that more than forty million people (his estimate of 5 percent of the population) were in labor camps or prison.<sup>33</sup> Mao Zedong in fact had deprived 5 percent of the population of their rights, after branding them members of the reactionary classes (landlords, rich peasants, counterrevolutionaries, and bad elements). He reported to the Politburo in 1956 that “two to three million counter-revolutionaries had been executed, imprisoned or placed under

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ment Printing Office, 1984), 741–743; *China Executes Thousands* (New York: Amnesty Action, 1983); J.F. Burns, “Criminals Up Against a Wall,” *International Herald Tribune*, 30 January 1986; Liang Heng and Judith Shapiro, “Executions Mark Year of the Tiger,” *International Herald Tribune*, 12 March 1986; John Copper, Franz Michael, and Yuan-li Wu, *Human Rights in Post-Mao China* (London: Westview Press, 1985), 51.

33. Susan L. Shirk, “Human Rights: What About China?,” *Foreign Policy* 29 (Winter 1977–78): 118.

control. . . ."<sup>34</sup> Two years later, during the "anti-rightist" campaign, as many as 700,000 were reported to have been arrested, imprisoned, or sentenced to do hard labor.<sup>35</sup> During the Cultural Revolution, the number of those persecuted was estimated at 100 million, or one-tenth of the population. Deng Xiaoping announced in 1980 that "according to incomplete statistics, 2,900,000 people have now been rehabilitated, and many more have been rehabilitated whose cases were not put on file or tried."<sup>36</sup>

Such large, unmanageable, and imprecise numbers have created serious problems of analysis for those involved in human rights. When the China Desk in the State Department informed the Human Rights Bureau in 1980 that "hundreds of thousands" of prisoners had been released from labor reform camps and prisons over the previous two years, the information raised more questions than it answered. No one could say whether hundreds of thousands remained, whether additional hundreds of thousands had perished, or how many were political cases. Many had been arrested during the "anti-rightist" campaign and others during the Cultural Revolution. This meant that many had been incarcerated for ten to twenty years. As for how many Chinese prisoners were still held, a news story in 1981 reported that "hundreds of thousands" still toiled in Chinese labor camps, where more than 80 percent of those imprisoned were reportedly held. The article noted that the total number could be even higher. "[E]stimates," it said, "by former convicts vary from several hundred thousand to a million."<sup>37</sup>

A tremendous amount of time and effort would be required to organize, categorize, and evaluate such information and then develop a strategy to deal with it. The limited resources of many NGOs have precluded this. NGO campaigns launched in the 1970s for the release of political prisoners in Asia focused on Indonesia, Iran, the Philippines, and South Korea, where information was readily available and the numbers, it can be said, were more manageable. No comparable campaigns were undertaken for the hundreds of thousands held in Chinese camps. To the outside world, moreover, these prisoners were undefined hordes of people. Because of China's long isolation and the absence of outside contact, Chinese prisoners, unlike those in other countries, were nameless, faceless, and anonymous. The tens of thousands held in Indonesia from 1966 to 1977 were by contrast not unknown. Quite a number had personal ties abroad, whether to professional colleagues, fellow students, members of governments, international organiza-

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34. See Mao Zedong, "On the People's Democratic Dictatorship," in *Selected Works of Mao Zedong* 4 (Beijing: Foreign Languages Press, 1961), 418; see also *Political Imprisonment*, note 11 above, 28; Jonathan Mirsky, "Mao Killed Millions: Deng Just Detains," *The Times*, 14 November 1984; Statement of Hung-dah Chiu in 1985 Hearings, note 25 above, 97.

35. Weisskopf, note 5 above.

36. See *AI Report 1980*, note 3 above, 193; Edwards, Henkin, and Nathan, note 3 above, 97-98, 106, 174 n. 58.

37. Butterfield, "Hundreds of Thousands," note 26 above.

tions, or human rights groups. One could identify with them more easily as a result, and many NGOs and governments vigorously took up their cases. The much larger numbers imprisoned in China, about whom little was known, were not dealt with.

A second consequence of the magnitude of numbers has been the way the freedom of emigration issue has been dodged. Because of the prevailing fear that China might unleash its population on the rest of the world, no government or NGO has ever urged that the PRC open its gates and allow emigration. As one State Department official put it, "If we pressed for free emigration and they opened up, what would we do then?"<sup>38</sup> Such a dilemma arose in the United States in 1979 over whether to extend most favored nation (MFN) treatment to China. Under U.S. law, the extension of MFN status to communist countries must conform to the human rights provisions of the Jackson-Vanik Amendment which prohibits trading concession to those restricting emigration.<sup>39</sup> The Soviet Union was denied MFN status in 1979 because it restricted emigration although it had allowed 51,000 Jews as well as members of other ethnic groups to leave the country. In the case of China, its restrictive emigration policies were set aside. The United States cited liberalization in the area of family reunification to justify its decision to extend MFN treatment to China. Apart from political favoritism, it was clear that no one was prepared to make freedom of emigration an issue with the Chinese, especially after Deng Xiaoping sent shock waves through American officialdom by telling President Carter, "If you want me to release ten million Chinese to come to the United States, I'd be glad to do so."<sup>40</sup> It is revealing that even those who criticized the United States for a double standard in extending MFN treatment to China but not to the Soviet Union did not urge that emigration become an issue in U.S.-Chinese relations. They urged instead that the Soviet Union be extended MFN status.<sup>41</sup>

President Reagan, in supporting continued MFN status for China, admitted that "[t]he limiting factor on Chinese emigration remains . . . the limited ability or willingness of . . . other countries to receive large numbers of

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38. State Department Official, conversation with author, 1980.

39. The Trade Act of 1974, Pub. L. No. 93-618, § 402, 88 Stat. 1978, 2056-60 (1975) (codified at 19 U.S.C. § 2432 (1982)).

40. Jimmy Carter, *Keeping Faith: Memoirs of a President* (New York: Bantam Books, 1982), 209.

41. See Statement of Ernest Lefever in House Committee on Foreign Affairs, *Human Rights and U.S. Foreign Policy: Hearings before the Subcommittee on International Organizations*, 96th Cong., 1st sess., 1979, Committee Print, 218 [hereafter cited as 1979 hearings]; Statement of James D. Seymour in 1980 Hearings, note 1 above, 137-138; Sandra Vogelgesang, *American Dream, Global Nightmare: The Dilemma of U.S. Human Rights Policy* (New York: W.W. Norton & Co., 1980), 78, 106-107.

One NGO, the International Human Rights Law Group, did in 1979 oppose extending MFN treatment to China, but on general human rights grounds, not to increase emigration (see Hearings of Subcommittee on Trade, Senate Finance Committee, Washington, D.C., 1979).

potential Chinese immigrants.”<sup>42</sup> Obviously this has not been the case with immigration from the Soviet Union or other East European countries. In 1984, 33 percent of Poles who applied for political asylum received it, and 11,000 were admitted as refugees from Eastern Europe and the Soviet Union. In the case of China, only 7.2 percent of asylum applications were granted and only thirty Chinese were admitted as refugees. “Curiously, except for the odd tennis star (remember Hu Na?),” commented one immigration expert, “we no longer go out of our way to grant either refugee or political asylum status to those who want to leave Communist China.”<sup>43</sup> A combination of the politics and the numbers will probably continue to make China a special case in the future.

### Prejudices in China's Favor

Several distinct prejudices have worked in China's favor and have made many reluctant to judge Chinese human rights practices too harshly – its time-honored civilization, its daring socialist experiment, and its tragic history.

Reverence for China's centuries-old civilization has blinded many intellectuals in the West to human rights realities in the PRC. A U.S. historian pointed out that whereas students of the Soviet Union generally become its worst critics, students of China are usually enamored of its history and traditions. They do “not want to believe that a country that had developed such a high level of civilization could be so cruel.” Although Chinese newspapers in the late 1960s “were filled day after day with pictures of intellectuals being paraded through the streets in dunce caps and being humiliated verbally and physically at mass meetings . . . we knew but we didn't want to believe.”<sup>44</sup> The awe and fascination in which Chinese civilization was held made many Sinologists hesitant to criticize China. As the *New York Times* aptly commented following revelations of Chinese cruelty to prisoners, “[f]oreigners often found it difficult to associate the polite Chinese leaders with such brutality.”<sup>45</sup>

President Carter wrote in his memoirs about China with a wonder and euphoria not extended to other countries. Speaking about Deng Xiaoping's visit to the United States he remarked, “I learned why some people say the Chinese are the most civilized people in the world.”<sup>46</sup>

42. Statement of President Ronald Reagan upon signing waiver to U.S. trade law for China, USIA Wireless File, AFR-419, Washington, D.C., 31 May 1984.

43. Chuck Lane, “Open the Door,” *The New Republic*, 1 April 1985, 20–25.

44. Merle Goldman, “The Persecution of China's Intellectuals,” *Radcliffe Quarterly*, 67 (September 1981): 12.

45. “The Chinese Gulag,” *New York Times*, 10 May 1979, Editorial sec.

46. Carter, note 40 above, 211. In the U.S. case, the enthusiasm produced nearly forty treaties, agreements, and protocols with the Chinese in 1979 and 1980 alone, spanning trade, tourism, scholarly exchange, consular, aviation, and maritime affairs.

Those few Western intellectuals who were able to visit China in the 1960s or earlier exhibited both veneration for the superior civilization they found and a strong belief in the Maoist revolution as an answer to China's problems. In those days, many intellectuals, especially academics, hoped that socialism would really work in China. Despite the "cruelties and injustices" of the Chinese communists, "most of us believed" that they were "the first rulers in a hundred years to bring China out of chaos, famine and weakness."<sup>47</sup> Disillusioned by Stalinism in the Soviet Union, those on the left and center looked to China to redeem their belief in socialist solutions. They did not, therefore, protest the "anti-rightist" campaign, despite its hundreds of thousands of victims. They gave the benefit of the doubt to the Great Leap Forward, now held responsible for the starvation of 20 million Chinese.<sup>48</sup> They discounted as "biased" the hair-raising testimony of Chinese refugees who managed to escape from the abuse and suffering of the Cultural Revolution and flee to Hong Kong.<sup>49</sup> These intellectuals wanted to believe the Chinese model was the exemplar of a new type of socialism, and they bent over backwards to do so. Some radical scholars even "praised the Cultural Revolution as the model for future societies in which there would be true participatory democracy." One eminent Harvard scholar wrote, "The Maoist revolution is on the whole the best thing that happened to the Chinese people in centuries. . . ." A British intellectual wrote, "It is difficult to write about the Cultural Revolution without running into a plethora of superlatives. . . ." <sup>50</sup>

Paul Hollander in his study, *Political Pilgrims* points out that there was a "strong disposition" among Western intellectuals to find virtue in China because of their dissatisfaction and disenchantment with their own societies. Thus, those who felt alienated in the West or bitter about the plight of intellectuals saw in China's dispatch to the countryside of its intellectuals, demonstrations of "social equality," government involvement with intelligentsia, and of the "merging of intellectuals with the masses." They refused to see the

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47. See Goldman, "China's Intellectuals," note 44 above; Hollander, note 28 above, 278-346.

48. Chinese sources today hold Mao responsible for massive deaths following the Great Leap Forward in 1958 when the government launched a crash program to communize agriculture, establish people's communes, and end private production. The fall in grain production and widespread famine that followed sharply contrasted with "many Western accounts of growing rural prosperity and of peasant commitment to Marxist values published in the 1960s and 1970s," see Thomas Bernstein, "Starving to Death in China," *New York Review of Books* 30 (16 June 1983): 36. See also V. Graham, "Chinese Economist Tells of Starvation Under Mao," *International Herald Tribune*, 24 April 1981; Hollander, note 28 above, 290; Copper, Michael, and Wu, note 32 above, 21 n. 2; Miriam London, Ivan London, and Ta-ling Lee, "Bread, Rice, and Freedom," *Freedom at Issue* (May-June 1983): 6.

49. Anita Chan, "Chinese Dissidents Abroad," *Index on Censorship* 9 (February 1980): 32.

50. See Goldman, "China's Intellectuals," note 44 above, 13; Hollander, note 28 above, 278, 298.

political pressures to which China's intellectuals were being subjected, or to believe that they were being imprisoned, tortured, or forced to do menial labor.<sup>51</sup>

Many scholars who overlooked human rights abuses in China also were reacting to the McCarthy period in the United States. Its unthinking opposition to Chinese communism incensed them as did its denunciation of anyone who spoke positively about Chinese communist efforts to unify the country and provide food, shelter, and education for its billion people. Many in the intellectual community highlighted the revolution's achievements or dismissed as untrue, portrayals of China as unfree, regimented, and totalitarian in order to counter repeated criticisms of the communist government coming from those of the political right, especially those who had never visited the PRC. In short, these intellectuals tried to approach China without the political bias of the time but in exchange substituted a reverse bias. As China hand Jonathan Mirsky explained, Western scholars were "fed up with a quarter-century's denial that 'Red China' existed and the insistence that the Chinese capital was situated in Taipei." Many as a result suspended critical judgment. While noting "imperfections" here and there, they gave China "slightly qualified approbation."<sup>52</sup> The opposition of many Western intellectuals to U.S. involvement in the Vietnam war added to the existing tendency not to criticize China. Because the PRC was portrayed in the West as the culpable party, they reserved their criticism more for the United States.

The desire for normalization of relations with China further put on ice any impulse to protest China's human rights violations. "Most of us in the China field . . . feared that if we pointed out and criticized the darker side of the Communist rule, we would impede the movement toward normalization."<sup>53</sup> Eagerness to visit China and to establish contacts firsthand overcame critical judgment. It was not, therefore, surprising that when China finally opened its doors in the early 1970s, the commentators, reporters, scholars, and political figures, allowed in for the first time since 1949, were euphoric about what they saw. Even though the terrible persecutions of the Cultural Revolution still were going on, they were enthusiastic and uncritical in their initial reports. As one U.S. observer wrote upon entering the PRC for the first time, "You leave Watergate, the energy crisis, crime, privacy, dirty movies, cynicism and sex at the border, and step across into safety, stability, enthusiasm, clean streets, clean talk and positive thinking." A British visitor even wrote favorably about the penal system, describing reform through

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51. Hollander, note 28 above, 339-343.

52. Jonathan Mirsky, "Back to the Land of Little Red Lies," *The Observer*, Sunday, 28 October 1979.

53. See Goldman, "China's Intellectuals," note 44 above, 13.

labor as having “the flavor of the kibbutz combined with the Marxist weekend school. . . .”<sup>54</sup>

The rosy pictures painted by the visitors were later a source of embarrassment to many of them. In one celebrated case, actress-writer Shirley MacLaine found herself berated by Deng Xiaoping himself for having extolled the benefits of the Cultural Revolution:

At the White House dinner, Miss MacLaine enthusiastically recounted to Deng a meeting she had with a Chinese nuclear physicist who had been sent to a commune to grow tomatoes. The scientist had assured her he felt much happier and more productive on the farm than in his lab . . . ‘He lied,’ Deng cut her off. ‘That was what he had to say at the time.’<sup>55</sup>

It was not until the late 1970s that journalists and scholars began to take a more clear-eyed view of China. As one commentator pointed out after the trial of the Gang of Four, “deep inside all the obfuscation was what we might have guessed all along – terror, torture and the usual human skulduggery.”<sup>56</sup>

China’s history also has worked in its favor, helping to keep Westerners silent about human rights. The forcible opening and the shameful exploitation of China in the nineteenth century and thereafter, by the West, Russia, and Japan, frequently has been invoked as a reason for the West to move slowly on human rights issues. In hearings before the United States Congress in 1980 and 1982, many who testified on China cited exploitation by foreigners and China’s past humiliation as a basis for inaction today:

The current government sees in China’s past a century of humiliation, when foreigners could do what they wanted in China without willing approval of the central authorities. A significant strain of the Chinese revolution focused precisely on this issue, and US [human rights] action based on our evaluation of China’s policy toward its own people runs very much against this grain.<sup>57</sup>

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54. See Hollander, note 28 above, 292–293, 338; see also L. Ladany, *The Catholic Church in China*, Freedom House, 1987, 31–33; Anne Thurston, “The Conflicting Images of China,” *Christian Science Monitor*, 24 February 1984, International edition; William F. Buckley, Jr., “Human Rights and Foreign Policy: A Proposal,” *Foreign Affairs* 58 (Spring 1980): 781; Mitchell A. Silk, “The Crime of Dissent in China,” *Problems of Communism* 34 (July-August 1985): 68; Edward Friedman, “The Original Chinese Revolution Remains in Power,” in *China from Mao to Deng: The Politics and Economics of Socialist Development*, ed. Bulletin of Concerned Asian Scholars (Armonk, N.Y.: M. E. Sharpe, Inc., 1983), 24; Butterfield, *China: Alive*, note 4 above, 25.

55. Butterfield, *China: Alive*, note 4 above, 55.

56. Flora Lewis, “Chinese Mystery Wrapper,” *International Herald Tribune*, 3–4 January 1981.

57. Statement of Kenneth Lieberthal in House Committee on Foreign Affairs, *Reconciling Human Rights and U.S. Security Interests in Asia: Hearings before the Subcommittees on Asian and Pacific Affairs and on Human Rights and International Organizations*, 97th Cong., 2d sess., 1982, Committee Print, 339 [hereafter cited as 1982 Hearings]. See also, Statement of Robert W. Barnett in 1982 Hearings, *ibid*, 316–326; Statement of Hans Konigsberger, *Love and Hate in China* (New York, 1966), 25, quoted in Hollander, note

PRC officials in line with this view have made it clear on several occasions that they would consider criticism by outsiders unacceptable. *Renmin Ribao*, the People's Daily, in 1979 questioned the West's authority to talk to China about human rights, in particular when it had committed so many abuses in China in the 19th century. Western "imperialists," the official daily charged, brought the Chinese people "death instead of human rights." Westerners "instructed the Manchu emperors, the northern war lords and the autocrat Chiang Kai-shek to kill the Chinese people and sometimes even did it themselves. How can they be in a position to lecture us on human rights?"<sup>58</sup>

Suspicion of foreigners and their influence has been a repeated theme in China's history. During the "anti-rightist" campaign and the Cultural Revolution, Chinese authorities singled out for persecution those educated in the West, those who had Western books or materials in their homes, or those who expressed Western ideas in their teachings or writings. Even after China turned to the outside world, Chinese officials warned its citizens against "excessive learning from . . . the West." Former Communist Party General Secretary Hu Yaobang, although known as a reformer, asserted that "items praising things foreign should not be published." Similarly, the Party journal *Red Flag* in 1982 denounced the spread of foreign ideas as "poison" against which disciplinary actions should be taken.<sup>59</sup> The "spiritual pollution" campaign of 1983 also launched attacks against Western ideas and influence.<sup>60</sup>

This deep-rooted mistrust of foreigners of course has led many to conclude that it not only would be unwise but counterproductive for outsiders to raise human rights issues with the Chinese. China specialists repeatedly have insisted that foreign efforts on behalf of persecutees during the Cultural

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28 above, 280; and Statement of Norris Smith, at Freedom House Conference on "Supporting Democracy in the People's Republic of China and the Republic of China (Taiwan)," *Freedom in the World*, New York, 1984, 291-292.

58. Fox Butterfield, "Peking in Reversal of its Position, Revives Some Curbs on Foreigners," *New York Times*, 15 April 1979, sec. A; see also "Beware of 'Human Rights,'" *Index on Censorship* 8 (September-October 1979): 11.

59. See "On Things Foreign," *Speahrhead* 18 (Northern Summer 1983): 41-43. See also G. Earnshaw, "Praise of West Banned in China," *Daily Telegraph*, 3 January 1983, 4, col. 7; C. S. Wren, "Beijing Struggles for Purity in Dress," *International Herald Tribune*, 20 October 1983.

60. The "spiritual pollution" campaign sought to increase ideological orthodoxy in art, literature, and official writings by stamping out "deviations" such as "bourgeois" theories, "anti-socialist" sentiments, and moral corruption. The campaign later spread to attacks on Western dress, lifestyle, imported goods and ideas. See James D. Seymour, "Spiritual Pollution," in *China Rights Annals* 1, ed. James D. Seymour (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 137-143; Heng and Shapiro, *Intellectual Freedom*, note 18 above, 24-26, 39, 42-43, 124-165, 179-180; Copper, Michael, and Wu, note 32 above, 29; "Campaign Against Spiritual Pollution," *Human Rights Internet Reporter* 9 (March-June 1984): 555-556; C. S. Wren, "China Starts Drive Against Spiritual Pollution," *International Herald Tribune*, 7 November 1983; Mark Baker, "China in Drive Against 'Spiritual Pollution,'" *Financial Times*, 18 November 1983, Overseas News sec.

Revolution would have been "counter-productive," and that foreign efforts "at certain periods since" also would have failed. Western ability to influence the situation overall is limited.<sup>61</sup> NGO positions have reflected this view. The Parliamentary Human Rights Group in London responded to requests to protest executions in China in 1983 with the statement, "the Chinese authorities are not influenced by the kind of public pressures which may be applied elsewhere."<sup>62</sup> The International Human Rights Law Group in Washington, after discussing the issue of human rights in China at a Board meeting in 1985, concluded that at present, the organization "couldn't be effective with the PRC."<sup>63</sup> A U.S. ambassador during the Carter administration quipped from his vantage point that unlike other countries, the PRC "simply won't play ball if we criticize them."<sup>64</sup>

Treating China differently from other countries has meant that greater deference has been shown to its government in the area of human rights than has been shown to other governments of the Third World or Asia. While international human rights energies have focused readily on the Indonesians, Koreans, Filipinos, and even Taiwanese without too much sensitivity to their histories, traditions, or customs, the view has prevailed that China is "different." China's communist government, it is pointed out, makes China different from other countries of Asia. Its official conception of human rights markedly diverges from that of the West's. Specifically it does not accept "Western human rights standards." Although it has joined the United Nations, acceded to the UN Charter, and even ratified several of its human rights agreements, China's own concepts of human rights sharply differ from those in the Universal Declaration of Human Rights.<sup>65</sup> Because of China's enormous population and lack of modernization, its authorities have had to give precedence to food, shelter, health care, and education over other rights. Chinese traditions and history have buttressed this view by emphasizing the collective good over individual freedoms. Consequently at the United Nations, China has defined human rights almost exclusively in terms of the economic and social needs of the collectivity and has championed "collective rights." Its officials have denounced civil and political rights as

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61. See Rhoads Murphey, "Scholars, Learned Societies, and the Defense of Human Rights," *Speahrhead* 17 (Northern Spring 1983): 8; Statement of June Teufel Dreyer in 1980 Hearings, note 1 above, 125-126; Goldman, "Human Rights in PRC," note 4 above, 137; Statement of Harry Harding in 1985 Hearings, note 25 above, 93-96.

62. Parliamentary Human Rights Group letter, 10 October 1983 (unpublished).

63. Amy Young, Executive Director, International Human Rights Law Group, interview with author, November 1985.

64. Statement of William H. Gleysteen, Jr., in 1982 Hearings, note 57 above, 35.

65. For a comprehensive discussion of how the Chinese view human rights, historically and today, and how this contrasts with Western and international standards, see Edwards, Henkin, and Nathan, note 3 above. See also statements of Jerome Grieder and Lucian Pye at Freedom House Conference, see note 57 above, 148, 237-239; R. John Vincent, *Human Rights and International Relations* (Cambridge: Chatham House, 1986), 41-42; "Notes on the Human Rights Question," *Beijing Review* 22 (Fall 1979): 17-20.

"bourgeois" concepts irrelevant to China.<sup>66</sup> Some Western scholars as a result have proposed that Western approaches to China should be different from those made to other Asian countries. Taking Chinese official statements as their guideline, they have suggested that Western initiatives focus not only on civil and political rights but also on the "welfare" needs of China's population.<sup>67</sup> China's communist background has thus worked in its favor, serving to confound many on how to approach it in the human rights area.

NGOs that seek to establish dialogue with the Chinese Government have sometimes ended up showing greater tolerance of Chinese human rights practices than for those in other countries. The International Commission of Jurists (ICJ), for example, has been seeking dialogue and friendly relations with the PRC, especially with China's lawyers. But a study of its published materials shows that the ICJ has avoided any criticism of human rights practices in the country.<sup>68</sup> It may well believe that a dialogue will be possible only if the organization does not take issue with the Chinese. The ICJ's approach to the Soviet Union has been strikingly similar. After muting criticism of Soviet human rights practices for years, the ICJ succeeded in 1984 in establishing a dialogue with official Soviet lawyers.<sup>69</sup> But no specific human rights violations were reported to have been raised at the meeting. With communist governments, which hold markedly different views of human rights, some organizations have tended to apply different standards and approaches, believing these will prove to be more effective.

Discussions in New York in the mid-1970s between officials of the International League for Human Rights and the International Commission of

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66. See Shen Baoxiang, Wang Chengquan, and Li Zerui, "On the Question of Human Rights in the International Realm," *Beijing Review* 25 (Summer 1982): 13; Edwards, Henkin, and Nathan, note 3 above, 130-131; "The History and Present Condition of Human Rights," *Renmin Ribao*, 13 April 1982, quoted in Copper, Michael, and Wu, note 32 above, 4-5, 23; Statement of June Teufel Dreyer in 1980 Hearings, note 1 above, 122-124; *Country Reports on Human Rights Practices for 1979*, note 15 above, 438, 440.

67. Shirk, note 33 above, 110-111, 126.

68. The ICJ did in the late 1950s and early 1960s publish major reports on Chinese human rights violations in Tibet. In 1968 it made reference to public trial rallies held in China in defiance of international standards. See *Yearbook of the United Nations* (New York: Office of Public Information, United Nations, 1961), 138-140; *Yearbook of the United Nations* (New York: Office of Public Information, United Nations, 1965), 192; "Public Trial Rallies in People's China," *Bulletin of the International Commission of Jurists* 35 (September 1968): 25-29. However, soon thereafter ICJ criticism of the PRC and of the Soviet Union seemed to come to a halt, and today the ICJ appears to disassociate itself from its earlier reports on Tibet.

69. The ICJ held a meeting in Moscow in 1984 with the Association of Soviet Lawyers. The groups discussed in general terms human rights, nuclear weapons, and the administration of justice. According to the records of the meeting, no specific human rights abuses in the Soviet Union were raised by the ICJ. See Justice 28th Annual Report, "The ICJ in Moscow," London, June 1985, 31; and the final statement of the discussions, 3-7 December 1984 (unpublished). For the opposition of the ICJ to the raising of the Andrei Sakharov case by governments or NGOs at the United Nations in 1980, see Commentary, *The Review* 24 (International Commission of Jurists, June 1980): 33.

Jurists resulted in both organizations agreeing that more information should be collected before making approaches on human rights to Chinese officials at the United Nations.<sup>70</sup> In the discussions, it was noted that efforts were underway in China to strengthen the rule of law, which might lead, in turn, to greater acceptance of international human rights standards. It was the hope of both organizations that the Chinese government would open its record to UN scrutiny and ratify both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights. However, Chinese nonratification of the Covenants and reluctance during the 1970s to hold a dialogue with NGOs, resulted in the deferring to the future of any efforts to deal with the People's Republic. This was not, of course, the case with other countries that avoided NGOs and shied away from international scrutiny.

A recent Asia Watch report on China applied markedly different standards to the PRC as well. Rather than evaluating China in terms of international human rights standards, as would be the case with other Asian countries, it published the enthusiastic account of two China experts impressed with the political and economic reforms of post-Mao China. Their report emphasized the human rights improvements they found and dwelled little on the human rights problems that remained. Only one sentence was devoted to the continued internment of political prisoners, and no listing was provided of their names or conditions of detention (notwithstanding the State Department's human rights report for the same period with estimates of 100,000 to ten million labor camp inmates,<sup>71</sup> inclusive of "counterrevolutionaries" and the "socially undesirable"). In the authors' opinion, "those whose rights are being violated most conspicuously today are not 'dissidents,' at all, but those charged with ordinary crimes." While acknowledging that they might be "overly optimistic" and that China's Communist Party "has a history of some of the most fearsome totalitarianism of this century," they nevertheless affirmed that "the story of China under the reforms will be one of the most remarkable tales of liberation ever told."<sup>72</sup>

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70. The author was Executive Director of the International League at the time and can claim no more virtue than others cited here in dealing effectively with China. For the text of the International Covenants on Human Rights, see *Human Rights: A Compilation of International Instruments*, United Nations, New York, 1978.

71. See *Country Reports on Human Rights Practices for 1985*, note 31 above.

72. Liang Heng and Judith Shapiro, *Intellectual Freedom in China: An Update* (New York: Asia Watch Committee of the Fund for Free Expressions, 1985), 2-3, 26-27, 55. Their earlier report, *Intellectual Freedom in China After Mao*, note 18 above, published by the Fund for Free Expression in 1984, did provide an excellent description of the climate of political and intellectual opinion in China but contained certain excuses which would never be put forward with regard to the Soviet Union or other countries, for example, "[t]he lack of intellectual freedom in China today is perceived as a problem by only a tiny minority of the Chinese people," 201. Or "the communist suppression of religion during the Cultural Revolution and its current slightly disapproving neutrality toward it should

The deference shown China sharply contrasts with the harsh criticism leveled against the communist government of the Soviet Union by Western academics, the Western press, and many NGOs. While Western groups regularly have publicized the workings of the Soviet Gulag, little interest by comparison has been shown in the Chinese labor system. One explanation is that the Soviets long have been the undisputed "enemy" of the West whereas China has alternated between enemy and friend, and is often not considered really "communist." As one commentator put it, "Now that the Chinese seem increasingly 'ours,' [because of their reforms], their lack of human rights is not at issue."<sup>73</sup>

Another explanation has been that the Chinese, unlike the Soviets, have confessed their atrocities and have made a greater effort to correct past abuses. But there also is a double standard, "one for the Russians, who are European, and another for the Chinese, who are Asians and therefore not supposed to have the same feelings for human rights and life." As pointed out by *New York Times* correspondent Fox Butterfield, "If a Russian writer or artist is banished to Siberia, it is front page news in Europe and the United States. . . . But if a Chinese dissident is exiled to Qinghai, Peking's equivalent of Siberia, the story is cut to a few paragraphs on an inside page or not printed at all."<sup>74</sup> There seems to be a widespread belief that the great hordes of Chinese simply are not to be judged by the same human rights standards applicable to Europeans and those Third World people raised in the Western tradition.

Special treatment has been given the PRC frequently out of fear that China might forbid entry and access to those who criticize its human rights record too harshly. During congressional hearings, it was noted that witnesses often were difficult to find because of "the reluctance of some scholars to prejudice their welcome" by publicly criticizing the human rights record of China and other Asian communist countries.<sup>75</sup> American academics themselves have acknowledged that the "practical consideration" of obtaining a visa has silenced many on human rights. The case of Harvard Professor John Fairbank is a noted example. He was denied entry to the PRC

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not be seen as a great hardship for the majority of the Chinese people. . . ." 54. For the State Department human rights report for 1985, see *Country Reports on Human Rights Practices for 1985*, note 31 above.

73. Anita Chan, review of *Intellectual Freedom in China After Mao*, note 18 above, in *China Rights Annals 1*, (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 186.

74. Butterfield, *China: Alive*, note 4 above, 489-490. China specialist Simon Leys also has emphasized this point. See Leys, "Is China 'Different'?" *The New Republic*, Washington, D.C., 7 October 1985, 20. See also Fox Butterfield, "Double Standard Seen in U.S. Views of Chinese, Soviet Persecution," *International Herald Tribune*, 12-13 December 1981; Robert W. Barnett, "Make an Issue of Rights in China? No.," *New York Times*, 2 April 1978, Editorial sec.

75. Opening Remarks of Congressman Edward J. Derwinski in 1980 Hearings, note 1 above, 6.

for several years following the publication of critical views.<sup>76</sup> The Minority Rights Group, an NGO in the United Kingdom, acknowledged to the author the difficulty of finding a scholar willing to write a candid report about China's minorities. Even when academic specialists have been willing to criticize China, their own universities have restrained them at times for fear of jeopardizing their academic exchange programs with the PRC. In a most celebrated case, Stanford University went to the extreme by dismissing from its doctoral program a graduate student, Steven Mosher, who published a critical article on forced abortion in China following an academic field trip. According to some accounts, Stanford dismissed the student after Chinese officials complained about him.<sup>77</sup>

### **Absence of a Lobby**

The absence of a lobby for human rights in China<sup>78</sup> during the 1960s and 1970s meant that little or no pressure was exerted on NGOs or governments to take up the cases of victimized Chinese. When dissident Wei Jingsheng was sentenced to fifteen years imprisonment in 1979, a news story commented that "[t]he fate of Mr. Wei . . . attracted none of the attention given Soviet dissidents, whose trials last year strained Soviet-American relations and led the United States to cancel a computer sale." Chinese dissidents, the article continued, "attracted little attention among members of Congress or among organized groups." One of the reasons was that no pressure group on China had come forward to interest Congress and NGOs in human rights conditions in the PRC.<sup>79</sup>

Although a Tibetan lobby did become active in the 1970s on behalf of the rights of its own ethnic group,<sup>80</sup> no comparable lobby for human rights in China developed. But the role played by pressure groups in providing information and getting others to act often has been critical. Most NGOs do not have large research staffs and cannot afford to look into human rights cases not reported in the press or brought to their attention by special interest groups. Frequently, the impetus behind the inclusion of specific human rights concerns in U.S. foreign policy has been human rights lobbies.

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76. See for example, Goldman, "China's Intellectuals," note 44 above, 13.

77. Fox Butterfield, "Did Stanford Give in to Chinese," *International Herald Tribune*, 8 June 1983. See also "China Scholar Sues Stanford," *Washington Post*, 30 September 1986.

78. Reference to a lobby on China should not be confused with the well-known "China lobby" in the United States, a conservative grouping which formed in the 1950s to oppose U.S. recognition of the PRC and which continued to exercise considerable influence thereafter. Today called the "Taiwan lobby," it opposes closer U.S. ties with Beijing and at times issues damaging information on human rights in support of its political purposes.

79. Bernard Gwertzman, "U.S. Gives China Public Rebuke Over Dissident Trial," *New York Times*, 18 October 1979, sec. A.

80. See Part II, "Growth of a Lobby."

Although special interest groups on Asian countries multiplied in the 1970s and 1980s in response to the new international focus on human rights, no equivalent lobby for China emerged.<sup>81</sup> The interest groups on Asian countries which formed, maintained links in the country concerned with local monitoring groups who wanted their human rights problems brought to international attention. But in China no groups existed locally, except briefly during Beijing Spring (1978). And even then, many activists in China did not look to the West for help or support. They generally confined their calls for democracy or "socialist legality" to their own leaders, seeking to reform their system within the bounds of socialism.<sup>82</sup> Perhaps that explains why during my time at the International League for Human Rights (1971–1978) and at the Human Rights Bureau of the State Department (1978–1981), no established group came forward to urge that NGOs and governments take up the case of China. The influential Coalition for a New Foreign and Military Policy, headquartered in Washington and composed of more than fifty organizations, pressed the U.S. government and NGOs to take up human rights in South Korea, Indonesia, and the Philippines, but never in China.

Beginning in the late 1970s, human rights directories did begin to list a few committees and associations on China organized at universities.<sup>83</sup> None of these, however, were "activist" groups intended to become influential lobbies. The Chinese Human Rights Society, formed in 1975 by a concerned and knowledgeable scholar, Mab Huang, did alert human rights groups to the situation in China, but the organization mainly acted as a kind of academic study group, bringing together concerned Chinese-American scholars and professionals. They wrote articles about China, sent telegrams on occasion, and sought broadly to promote a better understanding of Taiwan, China, and those countries with overseas Chinese. The Society for the Protection of East Asians' Human Rights (SPEAHR), established in 1977 by a U.S. academic, also was not a pressure group. It provided valuable and detailed information on human rights conditions in China but did not lobby others to take a stand on the information. When its President, James

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81. Asian groups that became active included the Friends of the Filipino People, the Campaign for Indonesian Political Prisoners (TAPOL), the Committee for Artistic and Intellectual Freedom in Iran, and the North American Coalition for Human Rights in Korea.

82. See Goldman, "Human Rights in PRC," note 4 above, 118–126, 136–137. For a discussion of the obstacles to the formation of human rights groups in China, see Liang Heng, *Freedom House Conference*, note 57 above, 225–234.

83. Marguerite Garling, comp., *The Human Rights Handbook: A Guide to British and American International Human Rights Organisations* (New York: Facts on File, Writers & Scholars Educational Trust, 1979), 216; *North American Human Rights Directory* (Garrett Park, Md.: Garrett Park Press, Human Rights Internet, 1980), 92–93; *North American Human Rights Directory* (Washington, D.C.: Human Rights Internet, 1984); Laurie S. Wiseberg and Hazel Sirett, eds., *Human Rights Directory: Western Europe* (Washington, D.C.: Human Rights Internet, 1982).

Seymour, testified before the U.S. Congress and urged that more attention be paid to human rights in China, he did so in his personal capacity.<sup>84</sup> In fact, those testifying before the U.S. Congress on human rights in China in the 1980s invariably were academics. In France too, Sinologists took the lead in drawing attention to human rights violations in the PRC.<sup>85</sup> There emerged no effective Chinese lobby group in the United States or Europe to press for human rights action on China.

In the United States, minority groups, much more than human rights groups, have played influential roles in the making of U.S. foreign policy. Because of their voter strength, groups such as Greeks, Jews, Irish, Poles, and more recently Hispanics and blacks, have exercised influence over key decisions about countries of interest to them.<sup>86</sup> Americans of East European descent, for example, have ensured that U.S. government interest does not flag in the area of human rights in Poland and Czechoslovakia. American blacks successfully have pressed for sanctions against South Africa's apartheid regime. American Jews have made the subject of Soviet Jewry a critical issue in U.S.-Soviet relations.

Chinese Americans have not entered this arena. Unlike other ethnic groups, which have not hesitated to challenge foreign governments, many Chinese have not wanted to embarrass the PRC. In part it has been a question of pride, but also there is the fear that exposing China's human rights abuses would serve to impede the normalization and strengthening of Beijing's relations with the United States.<sup>87</sup> Other Chinese Americans have not wanted to jeopardize the safety of their relatives or friends in China or their future ability to visit them. As one journalist commented, overseas Chinese, first allowed to visit their relatives in 1971, did not talk about what they saw or heard because they were "too frightened for their kinfolk."<sup>88</sup> Some also may have heard the warning of a leading Chinese intellectual who spoke out against exposing China's injustices internationally as Soviet dissidents had done in the case of the U.S.S.R.:

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84. Statement of James D. Seymour in 1980 Hearings, note 1 above, 131-139.

85. See Appeal of the French Association of Chinese Studies in *Le Monde*, 22 November 1980; a report of demonstrations by French intellectuals at the Chinese Embassy in Paris, "Devant l'Ambassade à Paris," *Le Monde*, 28 November 1981; the Letter to the Editor signed by twenty Sinologists, *Le Monde*, 8 June 1984; the articles on human rights in China by Professor Lucien Bianco, *Le Monde*, 12 December 1981 and 9 September 1982; and L. Fanchelieu and W. Zafanolli, "La Chine et les Droits de l'Homme," *Le Monde*, 13 October 1979.

86. Charles McC. Mathias, Jr., "Ethnic Groups and Foreign Policy," *Foreign Affairs* 59 (Summer 1981): 975-998.

87. See Miriam London and Ta-ling Lee, "China's Intellectuals," *Freedom at Issue*, November-December 1984, 11; and Christopher Thomas and Mohsin Ali, "Taiwan Remains Sticking Point After Zhao's Friendly American Visit," *The Times*, 16 January 1984, Overseas sec.

88. Edward Friedman, "In China, 70's Horrors," *New York Times*, 13 August 1980, Editorial sec.

We must not follow in the steps of a certain writer from the Soviet Union who specializes in writing about political prison camps and went to Western countries to publish his works. This course of action does not benefit the Chinese people, nor does it strengthen our unity and stability.<sup>89</sup>

Whether future generations of Chinese will exhibit stronger activism on behalf of human rights on the mainland is not predictable. At 1985 congressional hearings, a professor of Chinese origin did call upon the U.S. government to express its concern about human rights in China.<sup>90</sup> Of the tens of thousands of Chinese now abroad travelling or studying, a small number have chosen to defect to the West to promote human rights in the PRC.<sup>91</sup> Certainly, the United States and other governments would more readily raise human rights concerns with the Chinese government if Chinese residents urged that they do so. Congressional interest in human rights in Taiwan frequently has been sparked at the insistence of Taiwanese Americans. In 1981, when members of this community publicly protested the murder of a Taiwanese-American professor at the hands of the Taiwanese police, Congress held hearings and adopted special legislation.<sup>92</sup> Until a lobby directed at China comes forward, human rights issues are not likely to become a serious component of Washington's relations with Beijing.

### Exclusion from Human Rights Policy Debate

China remained conspicuously absent from the debates in the United States and Europe which led to the incorporation of human rights concerns in foreign policy. These debates, which took place in the 1970s, focused almost exclusively on the human rights records of countries which received military or economic aid from the West.<sup>93</sup> Human rights initiatives were assumed to

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89. For statement of Xia Yan, see Heng and Shapiro, *Intellectual Freedom*, note 18 above, 99-100.

90. Statement of Hung-dah Chiu in 1985 Hearings, note 25 above, 93, 96. See also 1982 Hearings, note 57 above, 365; Douglas Martin, "Open Letter in U.S." in "Door Still Open, Deng Declares," *International Herald Tribune*, 27 January 1987; Nick Ravo, "Students From China Defend Open Letter Over Stifling Dissent," *New York Times*, 26 January 1987.

91. See discussion below of journal *China Spring*.

92. House Committee on Foreign Affairs, *Taiwan Agents in America and the Death of Prof. Wen-Chen Chen: Hearings before the Subcommittee on Asian and Pacific Affairs and on Human Rights and International Organizations*, 97th Cong., 1st sess., 1981, Committee Print.

93. See House Committee on Foreign Affairs, *International Protection of Human Rights: The Work of International Organizations and the Role of U.S. Foreign Policy: Hearings before the Subcommittee on International Organizations and Movements*, 93d Cong., 1st sess., 1973, Committee Print; House Committee on Foreign Affairs, *Human Rights in the World Community: A Call for U.S. Leadership: Report of the Subcommittee on International Organizations and Movements*, 93d Cong., 2d sess., 1974, Committee Print. See

depend on diplomatic leverage and the amount of foreign assistance available. Because China did not have economic, military, or diplomatic ties with the United States, it was considered beyond the range of U.S. human rights policy. Congressman Donald Fraser, one of the architects of this policy, explained:

[w]e bear a special responsibility to be concerned about human rights in countries with whom we are prepared to have a special relationship. . . . When a country which likes to associate itself with us is committing egregious human rights violations, it seems to me it is appropriate that we respond, even though we can't do anything about Bulgaria or China or some of the other Communist nations.<sup>94</sup>

It was regularly argued in Congress and other public fora that the main purpose of a human rights policy should be to ensure that Western military and economic aid was not used to strengthen the repressive capabilities of foreign governments. Legislation adopted by Congress in the mid-1970s thus conditioned foreign governments' receipt of U.S. security and economic assistance on their observance of human rights, and made their records subject to annual review by Congress and the State Department.<sup>95</sup> The United States government, as a result, paid the most attention to human rights in the nations with which it had military and economic ties. Former U.S. National Security Adviser Zbigniew Brzezinski observed in his memoirs that in Asia, "human-rights factors contributed to adjustments in allocations to Indonesia, the Philippines, and Thailand for military training. . . ." <sup>96</sup> Assistant Secretary of State for Human Rights Patricia Derian cited progress at the end of the Carter administration in Indonesia, Nepal, Bangladesh, Thailand, and South Korea where the United States had played a role and where "significant numbers of political prisoners have been released."<sup>97</sup> The governments of Britain and Western Europe similarly exerted human rights pressures on those countries where they had the most access and leverage.

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also Senate Committee on Foreign Relations, *Human Rights and United States Foreign Assistance: Experiences and Issues in Policy Implementation (1977-1978): Report prepared by the Foreign Affairs & National Defense Division, Congressional Research Service, 96th Cong., 1st sess., 1979, Committee Print, 52-53, 105-110*; John Salzberg and Donald D. Young, "The Parliamentary Role in Implementing International Human Rights: A U.S. Example," *Texas International Law Journal* 12 (Spring/Summer 1977): 251; *Virginia Journal of International Law* 14 (Summer 1974).

94. Statement of Donald M. Fraser in 1979 Hearings, note 41 above, 304.

95. The International Security Assistance and Arms Export Control Act of 1976, Pub. L. No. 94-329, § 301(a), 90 Stat. 729, 748-750 (1976) (codified as amended at 22 U.S.C. § 2304 (1982)) (amending the Foreign Assistance Act of 1961, § 502B, added by the Foreign Assistance Act of 1974, Pub. L. No. 93-559, § 46, 88 Stat. 1795, 1815-16 (1974)); and the International Development and Food Assistance Act of 1975, Pub. L. No. 94-161, § 310, 89 Stat. 849, 860 (1975) (codified at 22 U.S.C. § 2151n. (1982)) (adding § 116 to the Foreign Assistance Act of 1961).

96. Zbigniew Brzezinski, *Power and Principle: Memoirs of the National Security Adviser 1977-1981* (New York: Farrar, Straus, Giroux, 1983), 127.

97. Patricia Derian, "U.S. Commitment to Human Rights," *Current Policy* 198 (Department of State, June 1980): 4.

The attention given to the human rights problems of those governments receiving U.S. aid prompted right-wing columnist William Buckley to complain that "since we do not give aid to the communist countries they are officially exempted . . . an interesting means of achieving immunity."<sup>98</sup> A former U.S. ambassador likewise warned against "taking action only against countries with which we are associated and which receive aid from us. . . ." He noted that "we appear to be more vociferous on the subject of human rights violations in South Korea, for example, than we are about violations in the People's Republic of China."<sup>99</sup> Congressman Fraser regretted that aid reductions to countries close to the United States led to the "accusation" that "this is not an evenhanded policy" with regard to communist countries, but noted that "there is no easy way" to deal with this problem since aid is not extended to communist governments.<sup>100</sup>

The communist nations of Eastern Europe, however, were formally brought into the human rights fold when the Helsinki Final Act was signed in 1975 by thirty-five nations of Europe and North America. As a result of the Final Act, Western governments and NGOs began regularly to monitor Soviet and East European compliance with the Act's human rights provisions, and governments raised violations at the review conferences. The Jackson-Vanik Amendment of 1974 also brought the human rights records of the Soviet Union and Eastern Europe into focus by linking communist countries' emigration practices to the extension of most favored nation treatment in trade.

China, however, remained singularly outside the human rights fold. No human rights report on China was required by Congress or the State Department until 1980.<sup>101</sup> In congressional hearings and NGO meetings on human rights, China rarely was mentioned. At a major conference at Notre Dame University in 1977 on U.S. foreign policy and human rights, China did not enter into the discussions at all. Even the global human rights assessment opening the meeting omitted reference to China. Human rights abuses in Asia were summarized as follows: "In a number of Asian countries abundant evidence exists of prolonged detention without trial, of inhuman prison conditions, and of executions. Indonesia, Iran and Iraq are those countries most frequently accused of such violations. Wholesale massacres in Cambodia have been reported."<sup>102</sup> Similarly, congressional hearings on "Human Rights and United States Foreign Policy" in 1979 mentioned China only in

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98. Buckley, note 54 above, 787.

99. Statement of Charles S. Whitehouse in 1982 Hearings, note 57 above, 49.

100. See note 94 above.

101. See *Country Reports on Human Rights Practices for 1979*, note 15 above. This report for the first time contained human rights information on communist countries and other non-aid recipient countries.

102. A.H. Robertson, "Human Rights: A Global Assessment," in *Human Rights and American Foreign Policy*, Donald P. Kommers and Gilbert D. Loescher, eds. (Notre Dame, Ind.: University of Notre Dame Press, 1979), 7.

passing.<sup>103</sup> Concern with human rights in Asia focused on the situation in South Korea and the Philippines, and on the role human rights might have played in the downfall of the Shah of Iran. Most NGOs and members of Congress wanted to make sure that U.S. assistance did not bolster repressive regimes with which the United States had ties.

By 1982, the omission of China from foreign policy debates on human rights began to cause expressions of concern in Congress. One member warned:

If we don't apply some human rights standards to China, even if . . . it will perhaps have a marginal, negligible effect, or no effect at all – it makes us hypocritical when we apply pressure to any place else in the world . . . because they can say, as they have said to my face when I traveled to some of these countries . . . why do you write off the Soviet Union and China? It is almost half the world.<sup>104</sup>

However, even after Congress required a human rights report on China and held hearings on its human rights practices, the U.S. government tended, for political and strategic reasons, to continue to view China as largely exempt from the human rights initiatives applied to other countries.

### **Exemption from Western Governments' Human Rights Policies**

President Richard Nixon set the tone for U.S. relations with China. Prior to his historic visit in 1972, which paved the way for the establishment of U.S.-Chinese diplomatic relations, he made it clear that the internal practices of the Chinese would not affect the United States seeking normal relations with them. His Secretary of State, Henry Kissinger, emphasized in his memoirs that he did not even want to hear about the negative aspects of the Cultural Revolution. When Chinese Foreign Minister Zhou Enlai "turned to the subject," Kissinger recalled, and "recounted being confined in his office for a couple of days by the Red Guards . . . I demurred that this was China's internal affair."<sup>105</sup> In Nixon's and Kissinger's view, it was imperative for the United States to take advantage of the Sino-Soviet split and to seek rapprochement with China. The sharp deterioration in Sino-Soviet relations, which became evident in the 1960s, gave the United States an opportunity both to normalize relations with the PRC and to further drive a wedge between the Soviet Union and China. The importance of this geo-political goal made successive U.S. administrations pay little attention to China's treatment of its own people. Although both the Carter and Reagan administrations adopted human rights policies which they applied to a wide variety of

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103. See 1979 Hearings, note 41 above.

104. Statement of Congressman Robert K. Dornan in 1982 Hearings, note 57 above, 360.

105. Henry Kissinger, *White House Years* (Boston: Little, Brown & Co., 1979), 750–751.

countries, they noticeably exempted the Chinese—albeit to different degrees. Other Western governments omitted human rights from their agenda with the Chinese as well. For the United Kingdom, the status of Hong Kong and the Chinese economic market were major considerations.

For the United States, political and strategic concerns were paramount, in particular, containment of Soviet power in Asia, curbing potential Chinese and North Korean aggression, gaining an edge for the United States in its global competition with the Soviet Union, and increasing military and political stability in Asia.<sup>106</sup> Such objectives consistently have overridden the issue of human rights, even when Western expressions of concern might not have jeopardized achieving these larger goals.

*The Carter Administration (1977–1981).* Although the Carter administration made human rights a central feature of its foreign policy, it basically did not apply this policy to China. A Congressional Research Service report published in 1979 pointed out that “it was widely accepted within the bureaucracy that the People’s Republic of China was not an appropriate target of human rights initiatives.”<sup>107</sup> While some government officials feared that “ill-timed human rights efforts”<sup>108</sup> might jeopardize the establishment of full diplomatic relations, others, including human rights advocates, accepted that a relationship with China first had to be developed before leverage would be forthcoming to promote human rights. Assistant Secretary Derian thus readily expressed support for first developing these ties with China in 1978, “It is our view that you can’t really get very far if you are not talking to people. . . .”<sup>109</sup> However, when political and strategic concerns continued to be used to deter human rights initiatives, even after relations were established in 1979, Derian decried the administration’s failure to take meaningful steps:

Efforts to extend the work for human rights . . . improvement to the communist government of the People’s Republic of China . . . were stymied time and again. . . . Set to music the courtship of the PRC is ‘Home on the Range,’ where never is heard a discouraging word.<sup>110</sup>

In its diplomatic exchanges with the Chinese, the United States generally made only passing references to human rights. Secretary of State Cyrus Vance in 1977 and 1978 described to the Chinese the importance attached by the United States to human rights but did not raise or intercede on behalf

106. See *ibid.*, 182; “Richard Nixon,” *The Times*, 8 March 1986, Overseas News/Law sec.; Cyrus Vance, *Hard Choices: Critical Years in America’s Foreign Policy* (New York: Simon & Schuster, 1983), 78; Brzezinski, note 96 above, 404, 542.

107. See *Human Rights and United States Foreign Assistance*, note 93 above, 63.

108. *Ibid.*, 64.

109. Patricia M. Derian, interview by “Meet the Press,” 24 December 1978, transcript, Kelly Press, Vol. 78, Washington, D.C.

110. Statement of Patricia M. Derian in 1982 Hearings, note 57 above, 484.

of specific Chinese cases. He stated the U.S. position on human rights and the Chinese stated theirs. His Assistant Secretary of State for East Asian Affairs, Richard Holbrooke, later told Congress, "although we could, and did, argue the case for habeas corpus in certain countries, we could not, and did not, raise Western concepts such as due process of law in . . . the People's Republic of China."<sup>111</sup> President Carter in his memoirs, while describing his discussions of human rights issues with visiting leader Deng Xiaoping, made it clear that he was not ready to press hard. Deng, according to the President, "said the Chinese were struggling to make changes in their system of justice" and "that China favored the unification of any divided families, was not censoring the press, and had recently been permitting substantial freedom of speech and expression." The President did not question this statement or go over these points again.<sup>112</sup>

In 1977, the *New York Times* reported an administration effort to keep the issue of human rights in China from the public eye. It reported that the State Department was resisting a proposed visit to the United States by the exiled Tibetan Dalai Lama for fear that the visit might prompt public discussion of human rights in China and meet with strong disfavor in Beijing.<sup>113</sup> It was U.S. policy to avoid public criticism of Chinese human rights practices for fear that it might jeopardize other foreign policy objectives.

The first public statement made by the Carter administration on human rights in China thus commended the Chinese. Issued in November 1978, the statement praised China's acknowledgement of past violations as "a positive development reflecting what we hope represents an intention to seek further improvement."<sup>114</sup> But even this bland assertion occasioned controversy within the State Department. The Bureau of East Asian Affairs objected to the issuance of any statement that could be construed as critical and thereby upset the fragile U.S.-Chinese relationship. The Bureau of Human Rights advocated the statement on the grounds that a human rights policy which ignored China had no credibility. Amnesty International, it pointed out, had just issued its first report on political imprisonment in China and the State Department could not remain silent. The compromise reached evoked the following comment in the *Washington Post*: "Despite a strong stand promoting human rights globally, the administration has been exceptionally reserved about criticizing the Chinese. . . ."<sup>115</sup> Other newspapers defended China's exemption from the Carter human rights policy. The *International*

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111. Statement of Richard Holbrooke in 1982 Hearings, note 57 above, 12.

112. Carter, note 40 above, 207.

113. Paul Grimes, "State Department Blocking Visit by Dalai Lama, Exiled in India," *New York Times*, 23 October 1977, sec. A. It took more than a year of wrangling between the Human Rights and East Asian Bureaus of the State Department before the Dalai Lama was allowed entry into the United States.

114. State Department Press Guidance, 28 November 1978. *Press Guidance*, note 7 above.

115. See note 7 above.

*Herald Tribune* specifically asserted, in the case of China, "[w]here human rights policy conflicts with incontrovertibly more compelling security interests, the human rights policy must give way." China's strategic importance to the United States, it argued, should override all other concerns:

China is pivotal in the world power balance. Now that the Soviet Union has nuclear parity or better with the US and clear superiority in conventional forces, as well as a tactical advantage in most of the world's tinder boxes, the Peoples Republic is de facto, the most important single ally of the United States.<sup>116</sup>

This overblown evaluation of China's relationship to the United States typified the temper of the time and the dominant view in the State Department. Nevertheless, when China's leading dissident Wei Jingsheng was sentenced to fifteen years imprisonment, after advocating a more democratic political system, the State Department did issue its first critical public statement. The department said it was "surprised and disappointed by the severity of [the] prison term" and revealed that U.S. officials had raised the case with the Chinese authorities.<sup>117</sup>

The Carter administration, however, did not issue any subsequent statements on human rights in China during its term of office, although arrests of human rights advocates continued unabated with the new leadership cracking down harshly on political dissent. Nor did the Carter administration raise privately any additional human rights cases with the Chinese authorities. Assistant Secretary Derian, in fact, complained to new Secretary of State Edmund Muskie in 1980 that the absence of any strategy for the PRC threatened the integrity of the human rights policy. In a memorandum to the secretary she noted that since 1979 no statement had been issued on China and no human rights cases raised. She characterized the U.S. human rights dialogue with the PRC as notable for its non-existence.

When Congress in 1980 announced hearings for the first time on human rights in China, Derian seized the opportunity to break with the official silence. Over the strenuous objections of the East Asian Bureau, Derian asserted to Congress and the public that despite "the encouraging trends" in China under the new leadership of Deng Xiaoping:

[E]ntrenched patterns of harassment, arbitrary arrest and harsh punishment without fair trial for political dissent still exist. Chinese Public Security officials are engaged in roundups of dissidents and do not generally respect the provision in the Constitution providing that 'the citizens' freedom of person and their homes are inviolable.'

The Government sentenced the best known activist, Wei Jingsheng, to 15 years in prison in October 1979, and an editor of the 'April 5th Forum' has been

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116. "Human Rights Dilemma," *International Herald Tribune*, 16 April 1980, Editorial sec.

117. Gwertzman, note 79 above.

in jail since November. Another activist was sentenced by the police to three years in prison for distributing transcripts of the trial.

[T]he senior Deputy Premier's speech of mid-January 1980 ruled out any early return to China's recent period of free wheeling, open discussion, and urged the abolition of Chinese constitutional guarantees of the 'four big freedoms' i.e., speaking out freely, airing views fully, holding debates, and writing wall posters. New legislation was adopted in September 1980, which abolished these 'four big freedoms' . . . wall posters, which had become in the post-Mao period a genuine outlet for freedom of expression, have been outlawed.<sup>118</sup>

Her forthright testimony, which for the first time drew attention to explicit human rights violations in China, occasioned an unprecedented rebuttal by the East Asian and Pacific Affairs Bureau of the State Department. Its Deputy Assistant Secretary John Negroponte, also present at the hearings, announced that he would "supplement" Derian's testimony and countered her evaluation by reporting that "an encouraging trend has begun to emerge in the direction of liberalization and away from the lawlessness and repressiveness of the cultural revolution which has been publicly condemned."<sup>119</sup> A Chinese expert testifying at the hearings challenged the East Asian Bureau's assessment, "I would take strong exception to Mr. Negroponte's statement that things have gotten extremely better . . . the situation has not gotten better since 1978. It has gotten considerably worse."<sup>120</sup> The chairman of the Subcommittee on Asian and Pacific Affairs also took issue with Mr. Negroponte's description of an "orderly transition of power" since Mao's death, reminding him that the Gang of Four had been arrested and were now on trial for their lives.<sup>121</sup> Assistant Secretary Holbrooke, stung by the impact of Derian's statement, also decided "to supplement" her testimony and sent a lengthy letter to members of Congress after the hearings. "We offer these additional observations," he wrote, "to supplement other testimony," and affirmed that over the past two years, "the general climate for the expression of divergent views on economic, political and cultural matters has improved very broadly and significantly."<sup>122</sup> Since no reconciliation of the Human Rights and East Asian Bureaus' positions took place, a sharp divergence of views became apparent in the administration over how to characterize China's human rights record in public.

The State Department's first human rights report on China in 1980<sup>123</sup> occasioned a similar controversy. The Embassy in Beijing, to the consternation

118. Statement of Patricia M. Derian in 1980 Hearings, note 1 above, 37-38.

119. Statement of John D. Negroponte in 1980 Hearings, note 1 above, 43.

120. Statement of June Teufel Dreyer in 1980 Hearings, note 1 above, 101-102, 117.

121. Statement of Congressman Lester L. Wolff in 1980 Hearings, note 1 above, 43.

122. Richard Holbrooke, letter to Congressman Don Bonker, Chairman of Subcommittee on International Organizations, contained in State Department unclassified cable, 19 October 1980. This letter never reached Congressman Bonker and therefore did not appear in the record of the Hearings, as intended.

123. *Country Reports*, note 15 above.

of the East Asian Bureau, sent a candid account of the Chinese human rights situation to the department for publication in the annual reports. Although the East Asian Bureau tried to water down the text, its position was undermined by the contradictory information being provided by its representatives in the field. The report, as a result, was issued essentially as drafted. Its information certainly influenced the Carter administration's decision not to sell police equipment to the PRC,<sup>124</sup> which turned into the State Department's most acrimonious dispute over human rights in China.

The East Asian and Economic and Business Bureaus joined by the Policy Planning Staff, lined up against the Human Rights Bureau to argue that despite the arrests of dissidents and other serious abuses, the human rights situation in China had improved sufficiently since the death of Mao to warrant the sale of police equipment to the PRC. They alleged that refusal to do so would damage U.S.-Chinese relations. Deputy Secretary of State Warren Christopher did not, however, accept their view. He decided to ban the proposed sale, and his decision was influenced by the human rights report on China which told of "a large prison system and numerous labor camps," ongoing political trials, and an "extensive police system" monitoring "the political activities of China's citizens."<sup>125</sup> Even more importantly, no "extraordinary circumstances" could be said to warrant assisting the PRC in exercising internal controls over its own people. Unlike munitions list items, which the Carter administration had begun to sell China,<sup>126</sup> no national security considerations could be said to justify sales in support of the police. Another consideration in the department's decision was U.S. denial of police equipment to several noncommunist Asian countries on human rights grounds; approving such sales for China would be too difficult to defend politically.

On balance, the Carter administration did exempt the PRC from most human rights initiatives reserved for other countries. U.S. diplomatic representations on human rights were low key, infrequent, and mostly unspecific. Public expressions of concern about PRC violations were generally avoided. This sharply contrasted with the vigorous private diplomacy and frequent public statements made about human rights violations in other countries. At the same time, toward the end of 1980, with full diplomatic relations established, the administration did demonstrate some willingness to apply its human rights policy. While it entered into an economic and security rela-

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124. See Bernard Gwertzman, "Peking Police Seek Equipment from U.S.," *New York Times*, 21 September 1980, sec. A. Section 502B of the Foreign Assistance Act prohibits the sale of police equipment to countries which engage in "a consistent pattern of gross violations of internationally recognized human rights" unless "extraordinary circumstances" warrant their provision, (see note 95 above), 22 U.S.C. § 2304 (1982).

125. See *Country Reports*, note 15 above.

126. The Carter Administration began to sell military support equipment and technology with military application to the Chinese in 1980 on geo-political or "extraordinary circumstances" grounds in accordance with Section 502B of the Foreign Assistance Act, see note 124 above.

tionship with China with little or no reference to human rights, it did draw the line at police equipment and even began to tolerate some critical assessments of the human rights situation. Both Derian's testimony before Congress and the State Department's Human Rights Report presented a more candid view than previously thought possible.

*The Reagan Administration (1981–1987).* The Reagan administration went significantly further than the Carter administration in exempting China from human rights consideration. The Reagan administration took office determined to downgrade the role of human rights in foreign policy; it felt little compunction about ignoring Chinese human rights violations. It also espoused rewarding its "friends" in the United States global struggle with the Soviet Union, which generally meant overlooking their human rights records. Although the administration repeatedly characterized communist regimes as the worst human rights violators, it did not apply such characterizations to China. Thus, its preoccupation with forced labor and suppression of trade unions in communist countries never extended to China. Assistant Secretary of State for East Asian Affairs, John Holdridge, told Congress that China would be differentiated from the Soviet Union and other communist nations because it "is not our adversary but a friendly, developing country. . . ." <sup>127</sup>

Although the administration came in on a platform to strengthen relations with Taiwan, which caused friction with the PRC, it showed no disposition to disagree with the Chinese over the issue of human rights. In fact during the administration's first few months in office, it reversed the policy of the Carter administration and approved the sale of police equipment to China.<sup>128</sup> Providing direct assistance to China's security forces, known to be responsible for some of the worst human rights violations in the country, openly contravened U.S. law. The sale moreover was approved at a time when the Public Security Bureau was engaged in a systematic crackdown on dissidents and newspaper stories were describing forced labor camps and the arbitrary role of the police at these camps. A front page *New York Times* story, for example, entitled "Hundreds of Thousands Toil in Chinese Labor Camps" reported that "[d]espite a recent effort to create a fair legal system and prevent a renewal of the arbitrary persecutions of the Cultural Revolution era, China still operates a vast network of labor reform camps populated by hundreds of thousands of prisoners." The article pointed out that many of those sent to labor camps were sentenced by the police without trial despite a newly adopted criminal code.<sup>129</sup> Several reports in the *Washington Post*

127. Statement of John Holdridge before the House Foreign Affairs Committee, 16 July 1981, reprinted in *Department of State Bulletin* 81 (October 1981): 38.

128. Approval was given for the sale of finger-printing equipment, computers, and other items; lethal equipment like shotguns were excluded.

129. Butterfield, "Hundreds of Thousands," note 26 above. Re-education through Labor, an administrative decision approved in 1957 and republished in 1980, empowers the police

further emphasized the "harsh interrogation, physical beatings and injustice" to which political prisoners in China were being subjected by the police.<sup>130</sup>

The Reagan administration also failed to apply U.S. law on development assistance and human rights to China. Section 701 of the International Financial Institutions Act requires that the United States oppose development loans to countries in "gross violation of internationally recognized human rights standards" unless the loans directly serve "basic human needs" (i.e., the poorest elements of the society).<sup>131</sup> Pursuant to this law, the Human Rights Bureau in the State Department contested U.S. support in 1981 for a \$200 million Asian Development Bank loan to China, pointing out that China had serious human rights problems and that the project did not meet the basic human needs criterion. The department nevertheless rejected the bureau's position and approved the loan, signaling that China's human rights record would not influence decisionmaking.

The potential Chinese market for U.S. goods strongly affected the Reagan administration's attitude towards China. Assistant Secretary Holdridge told Congress in 1981:

In the first quarter of this year, China became our third leading export market in Asia, behind Japan and the Republic of Korea. It is now our third largest agricultural market in the world. We want to help U.S. companies employ their technology edge fully and gain greater opportunities in the China market.<sup>132</sup>

U.S. government restrictions on the sale of advanced military technology and weapons to communist countries were lifted in the case of China after the administration reclassified the country as a "friendly non-ally." U.S. firms, with U.S. government support, actively began to seek a part of the Chinese market. By the end of 1985, Vice President George Bush announced on a visit to China:

[Our economic] ties are central to the evolving Chinese-American relationship. Look how they have grown.

In 1972 our two-way trade came to less than \$100 million. This year it will exceed \$7 billion. In 1972 the United States had almost no investments in China. Today America is the largest foreign country investor. Americans have committed

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to detain people without trial in labor camps or prisons for one to three years (with renewable sentences). The detainees receive pay for their work, unlike those tried and sentenced to long terms in prison, labor camps or mobile units under the Labor Reform Law of 1954. For detailed information on these two penal practices and their merger in 1980 into a single re-education through labor system, see Copper, Michael, and Wu, note 32 above, 64-65; and *China: Violations*, note 26 above, 89-90.

130. See Michael Weisskopf, "Glimpses of Chinese Prison Life," *Washington Post*, 15 September 1981, sec. A; Michael Weisskopf, "China's New Party Chief Vows to Quash Dissidents," *Washington Post*, 26 September 1981, sec. A; Weisskopf, "China Ends a Fling," note 20 above.

131. The International Financial Institutions Act of 1977, Pub. L. No. 95-118, § 701, 91 Stat. 1067, 1069-70 (1977) (codified at 22 U.S.C. § 262d (1982)).

132. Statement of John Holdridge, note 127 above.

\$150 million to more than 60 joint equity ventures and another \$550 million in off-shore oil exploration. . . . Some of America's most extensive involvement is in areas that China has identified as those most in need of development—energy, transportation, telecommunications, and management.<sup>133</sup>

Because of its growing economic interests and political objectives, the Reagan administration repeatedly has refrained from making any public statements about China's human rights record. Secretary of State George Shultz when asked by the press in 1984 whether he had raised human rights issues with the Chinese, expressed annoyance:

We haven't had a—any major discussion of their internal governmental operations other than the comments made by the Chinese themselves. . . .

I don't know what you mean by human rights approaches. There are matters that we'd like to see some action on and one or two of these have been mentioned privately. The excesses of the Cultural Revolution, we hope, and they seem to hope, are behind them, but I don't know what you have in mind and the idea that we should go around . . . the world—everybody all the time, I don't quite buy it.<sup>134</sup>

Human rights were conspicuously absent from President Reagan's agenda when he visited China in 1984. The Public Affairs Guidance prepared by the U.S. Information Agency omitted any reference to human rights in the trip objectives. The Guidance emphasized the "many areas of agreement" between the United States and China. It caused the *Washington Post* to comment that "a whole other side of China—its repressive side" has been omitted from the president's itinerary and agenda.<sup>135</sup>

Before Congress, administration officials regularly sought to minimize the extent of human rights violations in China. They managed this by emphasizing "improvements." The Assistant Secretary for East Asian Affairs affirmed in 1981 that "with some exceptions, the generally positive trend of the past few years continued." When questioned about the extensive Chinese labor camp system which was being widely reported in the press, he admitted he knew "very little indeed" about that.<sup>136</sup> The Assistant Secretary of

133. "Vice President Bush Visits China," *Department of State Bulletin* 85 (December 1985): 18.

134. Statement of Secretary of State George Shultz on "This Week with David Brinkley," Beijing, 29 April 1984.

135. See USIA Public Affairs Guidance No. 84-27: "President Reagan's Trip to the PRC," 21 April 1984, Washington, D.C.; "An Unsentimental Visit," editorial, *Washington Post*, reprinted in *International Herald Tribune*, 28-29 April 1984. In an address intended for broadcast, the President did extol the free enterprise system and make reference to political freedom in the context of criticizing the Soviet system. The Chinese government censored these remarks. See C.S. Wren, "Chinese Again Delete Remarks," *International Herald Tribune*, 30 April 1984; "The New China Hand," editorial, *New York Times*, reprinted in *International Herald Tribune*, 3 May 1984.

136. Statement of John Holdridge, House Committee on Foreign Affairs, *Implementation of Congressionally Mandated Human Rights Provisions: Hearings before the Subcommittees on Human Rights and International Organizations and Asian and Pacific Affairs, 97th Cong., 1st sess., 1981.*

State for Human Rights, Elliott Abrams, in 1982 also noted improvements in the Chinese record, "it is better than it was a few years ago under the Gang of Four. There has been an improvement since the years of the Cultural Revolution."<sup>137</sup>

Administration officials arrived at the determination of "improvements" in several ways. First, they made sure to contrast current human rights violations with those under the Cultural Revolution. By using this cruel and brutal period as a point of departure, improvements always could be found. (This would be roughly comparable to making the Stalinist period in the Soviet Union the benchmark for evaluating human rights in the Soviet Union, an approach never even remotely contemplated by the Reagan administration.) The arrests, beatings, and detentions without trial of China's dissidents in 1981 thus could be portrayed as improvements rather than setbacks since during the Cultural Revolution they would have been executed. Second, administration officials placed great emphasis on *expected* changes in the human rights situation, as if they had already occurred. Thus, the adoption of a new criminal code was hailed as if the entire system of justice had already been revamped on the basis of the code. The non-self-executing nature of most of China's announced reforms, their restrictive application, and their repeated violation were invariably overlooked. Third, administration officials compared human rights conditions in China to those in other communist countries where they deemed the situation worse. Thus, Deputy Assistant Secretary Thomas Shoemith of the East Asian Bureau, when asked about China by members of Congress in 1982, answered by comparing China to other communist countries: "The Government of China is neither as brutal toward its own citizens or as threatening to its neighbors as either North Korea or Vietnam. . . . In contrast to the USSR, China is not attempting to undermine democratic regimes. . . ." <sup>138</sup>

Not all Reagan administration officials have felt comfortable about treating China differently. Assistant Secretary Abrams, when asked by Congress about the evident contradiction between U.S. human rights requirements and the United States growing military and economic relationship with China replied, "China is probably the best example of countervailing considerations—namely, the geopolitical and strategic considerations."<sup>139</sup> Assistant Secretary Richard Schifter who replaced Abrams as head of the Human Rights Bureau in 1985, also exhibited uneasiness on the subject. He sought to justify China's exemption by claiming that the Carter administration had also applied a double standard to China:

As we all know, we have not made a major issue of the human rights record of the People's Republic of China, not during the Carter years and not since then.

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137. Statement of Elliott Abrams, Hearings, note 136 above, 23 February 1982.

138. Statement of Thomas Shoemith, 1982 Hearings, note 57 above, 438.

139. Statement of Elliott Abrams, Hearings, note 136 above, 23 February 1982.

We have seen the wave of democratization which crested in 1978, recede. We have refrained from public criticism not for lack of sympathy for the brave souls who came forward a few years ago to put posters on Democracy Wall but because we did not think it was in our national interest to speak up. . . .

What I have thus suggested is that relating our human rights policy to other foreign policy concerns and then acting on the basis of what we consider to be in our national interest is not a new approach, invented by the Reagan Administration. It is a perfectly understandable and wholly defensible aspect of our conduct of foreign affairs.<sup>140</sup>

No doubt those in the administration who found it untenable regularly to ignore China were responsible for its first public mention of China's human rights. Vice President Bush, on a visit to China in 1985, disclosed to the press that "he had raised the question of human rights in China during his meeting with Chinese leaders."<sup>141</sup> Although he refused to reveal any specifics, it was clear that after five years in office, the Reagan administration wanted it known that at least in the area of quiet diplomacy, its human rights policy extended to China. Deputy Assistant Secretary for East Asian and Pacific Affairs James Lilley also told Congress that the United States had raised human rights with the Chinese but added typically, "[w]e don't necessarily see a great advantage in banging them over the head with it, they are very sensitive people. . . ." <sup>142</sup>

China's human rights record also came to the fore when tennis star Hu Na applied for political asylum in 1983, claiming a well-grounded fear of political persecution should she return home. The East Asian Bureau in the State Department and others in the administration advocated that asylum should be rejected because the political costs would be too great, and indeed, the Chinese did cancel cultural and athletic ties with the United States after asylum was granted.<sup>143</sup> Assistant Secretary Abrams, however, strongly supported Hu Na's request for asylum on legal grounds, pointing out that it is U.S. law that counts, and that, "[i]t is really irrelevant what the view of the Chinese Government is. . . ." <sup>144</sup> The Congressional Subcommittee on Human Rights, prior to Abrams' statement, had informed him that it would like to serve public notice on the Reagan administration that there would be

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140. Statement of Richard Schifter (then Alternative Representative to the UN Human Rights Commission), "The United States Government's Commitment to Human Rights," Council of Americas, New York, 3 June 1981.

141. "Bush Reticent after Raising Chinese Human Rights Issues," *The Times*, 16 October 1985, 7, col. 6.

142. Statement of James Lilley, 1985 Hearings, note 25 above, 179, 122.

143. "US, in Rebuff to China, Gives Asylum to Tennis Player," *International Herald Tribune*, 5 April 1983; see also M. Parks, "China Cancels Cultural Ties to US in Protest," *International Herald Tribune*, 8 April 1983; P. Taubman, "US Downplays Chinese Warning," *International Herald Tribune*, 5 August 1982.

144. Statement of Elliott Abrams, House Committee on Foreign Affairs, *Review of U.S. Human Rights Policy: Hearings before the Subcommittee on Human Rights and International Organizations*, 98th Cong., 1st sess., 1983, 16-17.

a tremendous congressional uproar and fight if the decision were not made in the affirmative.

Although the Reagan administration in the end did stick by U.S. laws and principles and grant Hu Na asylum, it was not so principled in subsequent cases. The administration rejected the request for asylum of Chinese physicist Xia Yunen, arguing disingenuously that the publicity generated in his case would protect him from reprisal upon his forcible return to the PRC. Other prospective defectors from China also fared poorly.<sup>145</sup> Essentially the Reagan administration continued to exclude China from its human rights policy despite the rapid development of economic and military ties with the PRC, which under U.S. law should have made human rights considerations an integral part of foreign policy.

*The United Kingdom and Europe.* Former British Foreign Secretary David Owen, in affirming his support in 1977 for the Carter administration's human rights policy, said:

In Britain we will take our stand on human rights in every corner of the globe. We will not discriminate. We will apply the same standards and judgments to Communist countries as we do to Chile, Uganda and South Africa.<sup>146</sup>

The human rights policy adopted by the British government, however, like its U.S. counterpart, never extended to China. In 1979, a group of Chinese dissidents appealed to Prime Minister Margaret Thatcher to raise the case of Wei Jingsheng with Communist Party Chairman Hua Guofeng who was visiting Britain at the time. The appeal, which was also sent to the British press, said:

We feel sure that you will lend us your aid. If Wei Chingsheng gains a speedy release through your help, the Chinese people will be eternally grateful to you, for this is not just an issue for one individual, Wei Ching-sheng, nor of a certain magazine, *Exploration* [of which he was editor], but it is an issue which affects the whole future of democracy in our country.<sup>147</sup>

Prime Minister Thatcher, according to press reports, did not reply to the appeal or express any concern about the case to Hua Guofeng; she claimed she had never received the letter.

According to a Foreign Office official, it is not British government prac-

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145. Jay Mathews, "US Judge Orders Expulsion of Chinese Defector," *International Herald Tribune*, 24 January 1984. Over 1,000 Chinese on exchange programs have applied for asylum; that is one-tenth of the total in the U.S. See "Tennis and Politics," *International Herald Tribune*, 28 March 1983, editorial sec. See also statements of Hung-dah Chiu and John Copper, 1985 Hearings, note 25 above, 72 n.21, 252; statement of James D. Seymour, Freedom House Conference, note 57 above, 299-300; Lane, note 43 above.

146. *Congressional Record*, 95th Cong., 1st sess., 1977, 123, pt. 6: 6850.

147. See C. Hollingworth, "Free Dissident' Plea from China," *Daily Telegraph*, 8 November 1979; "No Reply from Mrs. Thatcher," *Daily Telegraph*, 9 November 1979.

tice to raise human rights issues with the Chinese. The PRC, in Britain's view, would find this offensive and the United Kingdom has to give overriding consideration to the future of Hong Kong, its crown colony. Chinese officials had begun to insist by the 1970s that the territory be returned to China. The weakness of the British bargaining position was well known. All China had to do to retake the territory was to shut off Hong Kong's water supply. Britain wanted to assure a peaceful transition to Chinese sovereignty and a special economic and political status for Hong Kong, including guarantees of individual rights for its 5.5 million residents. In addition, Britain had approximately \$2 billion directly invested in Hong Kong which it wished to protect. The United States had another \$2 billion invested. Britain was loathe to take any step that might irritate the PRC, such as raising the subject of Chinese human rights practices.

Negotiations over Hong Kong's future began following Prime Minister Thatcher's visit to Beijing in 1982. Under the terms of the Anglo-Chinese agreement, signed in December 1984, it was agreed that Hong Kong would be returned to Chinese sovereignty in 1997 with the status of a "special administrative region." The agreement provided safeguards both for the territory's free enterprise economy and for the political rights and freedoms of its inhabitants. These safeguards were to remain in force fifty years after 1997, at which time the PRC could make amendments. The agreement affirmed that all the rights and freedoms enjoyed by Hong Kong's population prior to the transfer of sovereignty would be preserved, including "freedom of the person, of speech, of the press, of assembly, of association, to form and join trade unions, of correspondence, of travel, of movement, of strike, of demonstration, of choice of occupation, of academic research, of belief, inviolability of the home, the freedom to marry and the right to raise a family freely."<sup>148</sup>

Although the British Foreign Office maintains that China will honor its policy of "one country, two systems" for Hong Kong after 1997, there are good reasons to doubt whether the safeguards agreed to in the political sphere will in fact apply after the territory reverts to Chinese rule. When the British instituted Hong Kong's first local elections in 1985 as a first step toward representative government, the Chinese strongly objected. The PRC evidently saw in the elections a threat to its plans to make the territory's government more like its own political system. The British as a result seem to have backed off from trying to make Hong Kong politically autonomous prior to 1997.<sup>149</sup>

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148. Derek Davies, "Initialed, sealed and delivered," *Far Eastern Economic Review* 126 (4 October 1984): 12-15.

149. "Hong Kong is Cautioned by Beijing About Sweeping Political Reform" *International Herald Tribune*, 23-24 November 1985; "Another Peking Visitor Upsets Hong Kong," *The Times*, 6 January 1986, 7, col. 1; R. Archer, "Hong Kong Run by Hong Kong People . . . Who Says," *Hong Kong Link* 1 (March 1986); "British Aide Says Hong Kong

But even before the Anglo-Chinese agreement was signed, the PRC began to suppress the political views of publications and individuals in the territory. In 1981, the Chinese forced the closure of the Hong Kong daily *Zhengming Ribao* by pressuring Hong Kong firms which did business with the PRC to withdraw their advertisements from the daily. The Chinese had been angered by the paper's staunch support of the Democracy Movement. Similar pressure by Chinese authorities resulted in the closure of the publication *Seventies*, which also had been deemed too critical of the PRC.<sup>150</sup> Some Hong Kong publications have begun as a result to shift their positions along more pro-Beijing lines.<sup>151</sup> It is reported that the Chinese authorities have a list of sixty Hong Kong writers and intellectuals who will be arrested if they enter the PRC; nearly 100 Hong Kong residents already have been arrested or have disappeared on visits to China, some because of their activities on behalf of human rights.<sup>152</sup>

The U.K.-Chinese agreement on Hong Kong's status provides that the territory's legal system will be maintained so long as its laws do not conflict with the Basic Law for the region, which the PRC currently is drafting. The detention, however, in the PRC of Hong Kong residents because of views they expressed while in Hong Kong strongly suggests that the Chinese government already considers its criminal justice system applicable to the territory. It remains highly questionable that Hong Kong residents will enjoy the same degree of political, civil and religious rights they do now after Hong Kong reverts to Chinese sovereignty. Some Hong Kong Chinese have begun to fear that Britain's political and economic interests in China will take precedence over the continued defense of the rights of Hong Kong's inhabitants. The British press has reported "a widely held view among many Hong Kong inhabitants" that "Britain cares less about their fate than it does about improving relations and trade with China."<sup>153</sup>

Expanding trade and developing new markets with China has been a major British concern. Although the British government has restricted the sale, on human rights grounds, of lethal equipment to the Chinese police, it has placed no bars on nonlethal equipment such as computers. Britain has vigorously vied with its Western European competitors for shares of the

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Will Delay Further Reforms," *International Herald Tribune*, 21 January 1986; Patrick Smith, "Beijing and the Future of Hong Kong," *International Herald Tribune*, 11 February 1987.

150. See Jonathan Mirsky, "'Life at the Top' Exposés Anger Deng," *Observer News Service*, No. 91823, 20 August 1981; Frank Ching, "Leftist Hong Kong Magazines Lose Favour with Beijing," *The Straits Times*, 13 November 1981; "Chronology of Events 1981," *Speahrhead* 19 (Fall 1983): col. 15.

151. "Bending with the Wind," *Far Eastern Economic Review*, (13 February 1986): 24-25.

152. See "Visitors from Hong Kong," *Speahrhead* 16 (Northern Winter 1982-83): 17-18; *AI Report 1984*, note 30 above, 220.

153. "Foreign Office Ties to Placate Hong Kong Anger," *The Times*, 19 December 1985; see also Patrick Smith, "Hong Kong Losing Trust in British Policy," *International Herald Tribune*, 9 April 1987.

Chinese market in energy, transportation, and telecommunications. According to *The Times* of London, "the settlement last year with China over the future of Hong Kong, coupled with the prospect of the Queen's visit here next year, has created the climate for a big push for new business."<sup>154</sup> For both the British and West Europeans, the potential Chinese market serves as one added reason for avoiding the issue of human rights.

When the Communist Party General Secretary Hu Yaobang visited Britain in 1986, Mrs. Thatcher did not raise human rights cases with him. Amnesty International had brought to the Prime Minister's attention the cases of ten political prisoners, among these a Catholic priest detained for thirty years, a Catholic Vicar-General detained since 1983, and imprisoned members of the Democracy Movement, in particular Xu Wenli and Wei Jingsheng, both sentenced to fifteen years imprisonment. The Prime Minister informed Amnesty that she told Hu Yaobang only that Britain considered important "the current development of legally-enshrined rights in China."<sup>155</sup>

Although the French government has been known to raise individual cases with Chinese authorities, in particular those involving some tie with France, most West European governments have remained silent. The foreign ministers of the European Economic Community (EEC) have made no human rights representations to China, though they have to other governments. In 1985, a delegation of the EEC's European Parliament deliberately did not raise human rights issues with Chinese officials while visiting the PRC, although the European Parliament earlier had adopted a resolution noting "widespread human rights violations in China."<sup>156</sup> The Parliamentary delegation decided against placing human rights on the agenda of its meetings with the Chinese because it took the view:

[T]hat its mandate and terms of reference required it to seek areas of agreement and to develop good relations and not to raise matters which were bound to

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154. "Britain Will Offer China More Cheap Credit to Boost Export Orders," *The Times*, 14 December 1985, 5, col. 1; see also D. Macintyre, "Strong British Bid for Share in Chinese Communications Market," *The Times*, 13 December 1985, 6, col. 1; "France, China Set Atom Sale," *International Herald Tribune*, 16 December 1985; "Official Chinese Visit to Britain," *The Times*, 25 June 1986. It is reported that Britain hopes to double its share of China's foreign trade by the early 1990s to 5 percent. In 1985, British exports to China totaled 396 million pounds and its imports 308 million pounds. See "Lord Young Expects UK Exports to China Will Double," *The Times*, 16 December 1985; "Chinese Party Leader Meets with Thatcher," *International Herald Tribune*, 10 June 1986.
155. Jonathan Mirsky, "Thatcher Urged to Defend Rights of Chinese Dissidents," *Irish Times*, 6 September 1985. See also letter from the Prime Minister to Amnesty International 30 June 1986 (unpublished).
156. The resolution drew attention to "extensive use of the death penalty, detention without charge or trial in so-called 're-education' camps, ill-treatment of prisoners . . . the absence of legal safeguards, harassment of Roman Catholic priests and censorship." European Communities European Parliament Working Documents, A2-121/85/1, *Second Report on Human Rights in the World for the Year 1984*, 11 October 1985, 16. The resolution was subsequently adopted by the European Parliament.

prove a stumbling block. And indeed, having only recently emerged from isolationism, the Chinese authorities were not yet ready to agree to their laws, customs, and penal traditions being the subject of international debate let alone in public.<sup>157</sup>

### At the United Nations

When China entered the United Nations in 1971, some of the worst excesses of the Cultural Revolution were taking place. Arbitrary arrests, forced labor, and summary execution were the fate of hundreds of thousands, possibly millions, of Chinese. UN human rights debates and resolutions, however, made no mention of these massive violations. Although Chinese violations in Tibet were debated by the UN General Assembly in 1959, 1961, and 1965 and resolutions calling upon China to cease depriving the Tibetan people of their fundamental rights and freedoms were adopted,<sup>158</sup> no discussions took place of violations in China as a whole and UN concern for the Tibetans lessened as support developed for China's entry into the United Nations.

To a large extent, China's exclusion from the United Nations for more than twenty years explained the general reluctance to raise the subject of its human rights practices. Many felt that China had been wrongfully denied its place at the United Nations and now should be welcomed and integrated into the United Nations system. The United States, having blocked the PRC's entry for so long, was eager to develop its relations with China and to avoid new irritants. The Chinese were newcomers to the international scene; it was generally felt everyone should go slowly. NGOs reflected this view. They waited for China to familiarize itself with the UN's human rights standards before making approaches. Amnesty International did not seek dialogue with China's UN representatives until the mid-1970s. The International League for Human Rights did not call upon China to ratify the International Covenants on Human Rights until 1979.

The first years of China's participation in the United Nations were also a time in the UN's history when it did not act on human rights violations in member states. There were two exceptions – Southern Africa and the Israel-occupied territories – where it was argued that international peace and security were threatened. Most UN members were opposed to investigations, reports or resolutions on the "internal affairs" of their own or other countries,

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157. *Ibid.*, A2-121/85/II, 20.

158. See G.A. Res. 1353 (XIV), 1723 (XVI), and 2079 (XX) and summary of debates on the Question of Tibet, contained in *Yearbook of the United Nations* (New York: Office of Public Information, United Nations, 1959), 67; *Yearbook of the United Nations* (New York: Office of Public Information, United Nations, 1961), 138; *Yearbook of the United Nations* (New York: Office of Public Information, United Nations, 1965), 191.

arguing that the United Nations had no jurisdiction in these matters. This position did not begin to erode until 1974 with the adoption by the General Assembly of a resolution on Chile. Thereafter, a fundamental change occurred. UN human rights bodies began to take action on specific violations in a range of countries. If Chile could be singled out, it was argued, other states also could be criticized. This reflected a slow but growing acceptance of the view that states should be held accountable to the international community for their domestic human rights practices. The Carter administration's human rights policy, NGO lobbying, a strong Western stance, and the support of many Third World countries accelerated this new approach. By the late 1970s and early 1980s, the UN Human Rights Commission began to take up, either in confidential or public sessions, human rights conditions in Poland, Argentina, Kampuchea, Iran, Afghanistan, El Salvador, Sri Lanka, and other countries. The commission also began to provide technical assistance to states, such as Equatorial Guinea, Bolivia, and Uganda, to help them restore the rule of law after having suffered serious human rights upheaval.

China, however, remained untouched by these initiatives and deliberations. Its human rights record did not come up for discussion or action. Nor was UN technical assistance offered to the PRC following the Cultural Revolution. NGOs and governments, in fact, scrupulously avoided reference to China in their statements and proposals in the 1970s and early 1980s. Even UN reports on human rights subjects made no mention of China. A revised and updated report on the prevention and punishment of genocide, for example, made no reference to the Tibetan case in a listing of post-Holocaust examples of massacres.<sup>159</sup> Yet, the United Nations had earlier denounced China for suppressing the cultural and religious life of the Tibetan people, and reports published by the International Commission of Jurists in the 1960s had found that Chinese policies intended to destroy the Tibetan people as a distinct ethnic group.<sup>160</sup> Neither Third World countries, whose causes China championed at the United Nations, nor the major powers, with their own political and economic objectives, wanted to antagonise the Chinese by raising their human rights record.

China also came to enjoy the immunity at the United Nations reserved for the permanent members of the Security Council. To date, no resolutions have been adopted, studies prepared, or investigations undertaken on any of the great powers' human rights records. Although NGOs have pointed out violations occurring in the Soviet Union, the United States, and the United Kingdom during Human Rights Commission debates and have sub-

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159. See *Revised and Updated Report on the Question of the Prevention and Punishment of Genocide*, U.N. Sub-Commission on Prevention of Discrimination and Protection of Minorities, E/CN.4/Sub.2/1985/6, 2 July 1986, 9-10.

160. See note 158 above.

mitted complaints against all three countries under the UN's confidential 1503 procedures, no action has ever resulted. Most states and NGOs have preferred to focus their energies on countries of more marginal political significance where the votes are more obtainable and the retaliation is less severe. They have also sought to prevent superpower confrontation from overly politicizing human rights debates. As a result, scrutiny has fallen mainly on smaller countries that are less capable of retribution. This situation, of course, could change, but during the fifteen years that China has been represented at the United Nations, the system essentially has operated to exempt the PRC from any close look at its human rights record.

## **PART II. BREACHING THE WALL AROUND CHINA**

Occasionally the reasons put forth for not pursuing human rights issues with the Chinese have been persuasive, but all too often they have been excuses. Basically, governments and NGOs have not wanted to tackle the formidable problems involved – the collection, analysis, and translation of information on a country so long isolated and beyond reach, the development of a dialogue with the Chinese on a subject as sensitive as human rights, and the fear that raising such issues would jeopardize good relations with the PRC. It has been easier to fall back on well-trod, accepted rationalizations.

Yet the potential today for dealing with human rights in China has never been greater, even though the same stale arguments continue to be mustered against doing so. Thus, it is still alleged that there is insufficient information on which to act, that the Chinese don't accept international human rights standards, that they brook no criticism, and that it would be counterproductive to raise human rights issues with them. But as will be seen, each of these reasons has lost a great deal of validity. New developments have occurred that are breaching the wall which for so long has shielded China from accountability.

### **Availability of Information**

The most promising new development has been expanded access to China which has made human rights information more available. Although many persist in emphasizing the difficulties in obtaining information, since the late 1970s China has allowed large numbers of tourists, businessmen, scholars, professionals, and government officials into the country. As many as 1.38 million foreign tourists traveled to China in 1985. Of U.S. citizens alone, between 100,000 to 200,000 now visit annually. By 1986, China opened a total of 286 cities to foreigners; only 179 of these required special police

permit.<sup>161</sup> The opening has encouraged those interested in human rights to visit and report. China experts Liang Heng and Judith Shapiro went to China in 1985 to evaluate human rights conditions. They traveled widely with few restrictions from the middle of January to the end of March:

[W]e traveled freely in China, making a large circle through seven of the central provinces: Hunan, Guangdong, Guizhou, Sichuan, Shaanxi, Shanxi, and Hubei. We spoke with a great many people, including peasants in poor and in prosperous areas, workers, artists, writers, journalists, engineers, scientists, students, professors, dissidents, beggars, shopkeepers, entrepreneurs, policy makers, and the unemployed. We lived, most of the time, as the Chinese do and visited regions few foreigners have seen. . . .<sup>162</sup>

The two brought to light much valuable information on the current human rights situation. They reported on the status of political prisoners, local party elections, the revival of religion, enforced abortion, the return of collectivized land to families, and other relevant issues. They observed that the "Chinese are sometimes more open with outsiders than they can afford to be with one another," and therefore were willing to be more revealing with them.<sup>163</sup> Similarly, *New York Times* correspondent John Burns reported that "more and more Westerners . . . were venturing without permits into remote regions of the country and returning with accounts of a climate in which suspicion seemed absent."<sup>164</sup>

China's opening to the outside world also has enabled large numbers of foreigners to live in China for extended periods of time. Thousands of foreign students today study in the PRC, and more than 5,000 foreign firms operate in China. In 1981, foreign correspondents in Beijing totalled over 100. Being able to live in the country has helped many foreigners to penetrate what one journalist has called the "two Chinas," the "official version . . . smiling, selfless, and dedicated to the cause" and the "other China . . . partially hidden . . . whose one billion inhabitants had gone through three decades of cataclysmic change, sometimes for the better, but often . . . involving brutality, waste, and a terrible personal suffering."<sup>165</sup> Having been charged

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161. See 1985 Hearings, note 25 above, 179, 184-185; Heng and Shapiro, *Intellectual Freedom*, note 18 above, 21-22. "Tourism in China Increases," *International Herald Tribune*, 21 January 1986; "China Opens More Cities to Foreign Travelers," *International Herald Tribune*, 27 September 1985; Butterfield, *China: Alive*, note 4 above, 60.

162. Liang Heng and Judith Shapiro, "China: How Much Freedom," *The New York Review of Books* 32 (24 October 1985): 14. Heng, a Chinese university student, married Shapiro, an American teaching in China. He became an American citizen after arriving in the United States in 1981. They have published two books, *Son of Revolution* about the Cultural Revolution and *After the Nightmare*, based on their return visit to China in 1985.

163. *Ibid.*

164. John Burns, "A Reporter's Odyssey In Unseen China," *The New York Times Magazine*, 8 February 1987, 30.

165. Butterfield, *China: Alive*, note 4 above, 25.

by their papers to provide information, foreign correspondents have made it their business to circumvent official restrictions and they have been less preoccupied than visiting scholars with the problem of next year's entry visa.

Articles on Chinese human rights conditions, as a result, began to multiply in the late 1970s and reporters for the first time were able to base their stories on direct interviews with dissidents and former prisoners. The Chinese authorities, in fact, at first encouraged the victims of the Cultural Revolution to speak out and they paid tribute to those who had suffered inhuman treatment. A *Washington Post* correspondent was allowed in 1977 to interview by name a former actress who had been imprisoned during the Cultural Revolution. The story reported that she had been isolated in one room for four years, had undergone 500 "accusation meetings," and that she blamed her arrest on the Gang of Four.<sup>166</sup> Other newspaper stories focused on Wang Guangmei, wife of China's former President Liu Shaoqi. She had been imprisoned for eleven years during the Cultural Revolution and had "suffered all kinds of brutal treatment, both of the spirit and of the body."<sup>167</sup>

Most Chinese, of course, were not able to risk being quoted in interviews. Public accounts of personal tragedies began to be curbed when they threatened to get out of hand and undermine confidence in the communist system. A *Washington Post* article in 1982 about a school teacher imprisoned for twenty-one years thus cautioned:

Like other prison camp refugees, she demanded anonymity to protect her from possible reprisals. She asked to be identified only as 'Wang,' and the *Post* also agreed to delay publication of her story for several weeks to help ensure her anonymity.<sup>168</sup>

Journalistic accounts also went beyond the abuses of the Cultural Revolution and provided significant information about current conditions in labor camps where political prisoners continued to be sent. An article in 1980, entitled "China Revives Labor Camp System," provided the names and whereabouts of labor re-education camps in Beijing's rural outskirts to which it said thousands of young people were being sent by the police without trial or court review.<sup>169</sup> A *Le Monde* feature in 1982, "China: The Gulag Has Not Disappeared," also provided information on the continued use of labor camps in the PRC.<sup>170</sup> Interviews with "several dozen former camp inmates"

166. See *Amnesty International Report 1977*, (London: Amnesty International Publications, 1977), 176, 177.

167. Nigel Wade, "Peking Freedom Rally," *Sunday Telegraph*, 28 January 1979; see also Fox Butterfield, "China Memorializes Liu Shaoqi," *New York Times*, 18 May 1980, sec. A, 3, col. 1; for tributes to other victims, see "'People's Daily' Praises Co-Worker of Former Beijing Mayor," *Xinhua*, 13 January 1979.

168. Weisskopf, "Ex-Inmate Recalls," note 5 above.

169. Jay Mathews, "China Revives Labor Camp System," *Washington Post*, 1 June 1980, sec. A, 1, col. 4.

170. Henri Leuwen, "Chine: Le 'Goulag' n'a pas Disparu," *Le Monde*, 16 May 1982.

produced a *New York Times* story in 1981 which gave the location of camps throughout the country and described the conditions of former and current inmates. A seventy-year old Chinese Protestant minister was reported to have worked

in a coal mine, along with 10,000 other prisoners, scraping up chunks of black rock with his bare hands for 23 years. . . . The prisoners in his camp worked from 6:00 a.m. to 6:00 p.m., seven days a week, with a day off every two weeks. . . . 'If you didn't meet your daily quota of coal, measured by baskets filled, they . . . cut your food ration or might eventually put you in solitary confinement.'

The article then turned to the camps today, where it said "the work is hard, the food is scanty and the punishment often brutal. . . . Each city and province maintains its own camp or set of camps." The "biggest and most dreaded camps" can be found in sparsely populated frontier regions, some near the Soviet border, where prisoners are put to work clearing swamps and forests or building roads.<sup>171</sup>

Although government officials have generally refused to discuss conditions in camps or prisons, Chinese citizens have provided information to reporters, sometimes at considerable risk to ensure that the system becomes known to the outside world. Political prisoner Liu Qing in 1981 smuggled out a 196-page manuscript from a Shanxi labor camp to Hong Kong, which described his interrogation, ill-treatment, and detention with<sup>out</sup> trial.<sup>172</sup> Similarly, a "resident of Shanghai" sent to the *Far Eastern Economic Review* a letter exposing the labor reform system in the Shanghai region. Speaking for "young intellectuals of all of Shanghai," the letter listed twenty-four prisons, detention centers, and labor-reform camps in the Shanghai area.<sup>173</sup> Prior to his arrest in 1979, dissident Wei Jingsheng wrote an expose of the Qin Cheng prison outside Beijing. Providing information about this prison to the media was a daring challenge to the Chinese regime because the prison was a closely kept secret. The prison had contained high ranking detainees, among them the Panchen Lama, Tibet's second most important religious leader, and Wang Guangmei, wife of China's former president. According to Wei's accounts former inmates reported "frequent beatings and torture by electric shocks, strong lights and drugs." Prisoners received near starvation rations of food and were permitted "one change of clothes a year, a monthly shower and . . . work or exercise only if they are deemed to have a good attitude."<sup>174</sup>

171. Butterfield, "Hundreds of Thousands," note 26 above; see also Butterfield, *China: Alive*, note 4 above, 489-499.

172. Weisskopf, "Glimpses of Chinese Prison Life," note 130 above.

173. *AI Report 1977*, note 166 above, 176, quoting *Far Eastern Economic Review*, March 1977.

174. Nigel Wade, "Torture in Chinese Bastille," *Daily Telegraph*, 19 March 1979, 4, col. 7; Fox Butterfield, "Peking Dissident in Rare Account Tells of Political Prisoners' Torture," *New York Times*, 7 May 1979, 1, col. 1.

Reporters, on rare occasions, also managed to secure information about China's prison system from officials. Government sources, for example, revealed the use of torture against Chinese prisoners in 1979 and 1980.<sup>175</sup> In 1984, when correspondents were allowed into Qinghai Province (north of Tibet) for the first time since 1949, they glimpsed labor camps disguised as factories and managed to secure information about them from officials on hand.<sup>176</sup> Correspondents on occasion have been permitted to visit select prisons and labor re-education camps, notably the Beijing and Shanghai municipal prisons and Round River Farm.<sup>177</sup> Journalists also have discovered cases of political prisoners having been incarcerated in mental hospitals, a practice thought confined to the Soviet Union.<sup>178</sup>

Because of the international press' efforts to obtain information and the willingness of courageous Chinese to provide it, the outside world has gained a greater appreciation of the appalling conditions in China's prison and labor camp systems. The 1978-1979 Democracy Movement, which spontaneously erupted after Mao's death, also came to the world's attention through the press. News photographs showed tens of thousands of people at Democracy Wall in Beijing and in other cities reading wall posters that called for democracy and human rights. Public demonstrations in support of greater political and economic freedoms were reported in many large cities as well. The media's coverage of the hopes and aspirations of large numbers of ordinary Chinese citizens made it more difficult for the Chinese government to claim, as it later did, that only a handful of dissidents had been involved.<sup>179</sup>

Nor could the subsequent crackdown on the free speech movement be hidden from public attention. The international press publicized the arrests of dissidents, reported on the closure of unofficial journals, and published the essays of those imprisoned.<sup>180</sup> The *New York Times* published the tran-

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175. For report of Supreme People's Procuratorate, see Department of State, *Country Reports on Human Rights Practices for 1980* (Washington, D.C.: U.S. Government Printing Office, 1981), 575.

176. See Davies, "China's Labour Camps," note 28 above.

177. See note 28 above.

178. Butterfield, *China: Alive*, note 4 above, 460.

179. See Peter Griffiths, "The Day that China Turned to the Wall," *Observer*, 4 March 1979; John Gittings, "Democracy Becomes China's Great Debate," *Guardian*, 27 June 1979; Fox Butterfield, "Critical Wall Posters on View in Shanghai," *New York Times*, 16 April 1979, sec. A, 1, col. 4; G. Earnshaw, "Shanghai Protestors," *Guardian*, 7 November 1979; "Deux Entretiens avec des Contestataires Chinois," *Le Monde*, 6 December 1980; Butterfield, *China: Alive*, note 4 above, 546-551.

180. See Fox Butterfield, "After Crackdown in Peking," *New York Times*, 12 February 1980, sec. A, 2, col. 1; Jay Mathews, "Peking Shuts Last Outlets," *Washington Post*, 15 September 1980, sec. A, 18, col. 1; Jay Mathews, "Chinese Officials Denounce Wall Posters," *International Herald Tribune*, 29 November 1979; "La:in du 'Liberalisme' en Chine," *Le Monde*, 6 April 1979; Alain Jacob, "Qu'ils Viennent M'Arrêter," *Le Monde*, 7 April 1979; J. Hoffmann, "Peking Silences Dissidents," *Financial Times*, 2 April 1979; Fox Butterfield, "Chinese Remove Wall Posters and Activists Consider Policy Change," *New*

script of Wei Jingsheng's trial and excerpts from his autobiography, which had been written before his arrest and smuggled from China to Taiwan.<sup>181</sup>

By the early 1980s, the Chinese government did try to restrict journalists' access by barring Chinese citizens from speaking to foreigners, except on official business. This certainly did reduce some of the information flow. But the effort was only partially successful, and reporters found ways to penetrate official restrictions and secure the information they were after. A *Daily Telegraph* article in 1986, which described in detail Wei Jingsheng's conditions in detention, was based on information gleaned from his "friends" and from "a former inmate."<sup>182</sup> Other reporters published information about the trial of the Gang of Four, the restrictions placed on religion, the censorship of literature, enforced abortion, and the arbitrary executions of thousands of common criminals and "counterrevolutionaries" during the "anti-crime" campaign.<sup>183</sup>

Journalists' accounts of severe economic problems previously hidden from public view also surfaced. Officials admitted for the first time that food and housing shortages, unemployment, and inflation existed. Demonstrating peasants sought out reporters, despite government bans, to publicize their economic grievances.<sup>184</sup> Journalists were also able to ferret

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*York Times*, 2 April 1979, sec. A, 11, col. 1; M. Lucbert, "Le Régime est Décidé à Etouffer," *Le Monde*, 14 April 1981; M. Lucbert, "Nouvelles Condamnations," *Le Monde*, 12 November 1982.

181. "Excerpts from a Peking Trial Transcript," *New York Times*, 15 November 1979, sec. A, 22, col. 1; "A Dissenter's Odyssey Through Mao's China," *New York Times Magazine*, 16 November 1980, 134-143; "Un Récit du Contestataire," *Le Monde*, 21 November 1980.
182. Hugh Davies, "China Dissident 'Being Driven Mad in Prison,'" *Daily Telegraph*, 13 June 1986.
183. See Bonavia, *Verdict*, note 1 above; Mary-Louise O'Callaghan, "The Dark Side of China," *Christian Science Monitor*, International Edition, 14 December 1984; C. S. Wren, "Islam, After Persecutions," *New York Times*, 15 June 1983, sec. A, 1, col. 2; C. S. Wren, "China Still Allows Some Alternatives to Atheism," *New York Times*, 18 December 1983; Mary Lee, "Cathedral to Reopen in Peking," *The Times*, 19 December 1985, 8, col. 7; C. R. Bogert, "China's Inscrutable Stage Censors," *International Herald Tribune*, 31 May-1 June 1986; C. MacDougall, "Sorry Tale of China's Intellectuals," *Financial Times*, 16 August 1984; J. F. Burns, "Buds of Freedom," *International Herald Tribune*, 31 May-1 June 1986; J. Mann, "China Cracks Down on Popular Press," *International Herald Tribune*, 20 January 1986; "China Said to Seize 700,000 Criminals," *International Herald Tribune*, 18 October 1983; David Bonavia, "A Bullet in the Back of the Head," *The Times*, 17 October 1983, 7, col. 4; M. Baker, "The Posters Which Spell Death," *Financial Times*, 19 October 1983; M. Lucbert, "Les Executions Massives de 'Criminels' Semblent Liées à la Répression Politique," *Le Monde*, 4 October 1983; Michael Weisskopf, "Abortion Policy," *Washington Post*, 7 January 1985, sec. A, 1, col. 2; Butterfield, *China: Alive*, note 4 above, 515-544.
184. See London, London, and Lee, "Bread, Rice, and Freedom," note 48 above, 6; Copper, Michael, and Wu, note 32 above, 33; Fox Butterfield, "The Revolution in Teng's China is More Economic than Political," *New York Times*, 28 January 1979, sec. A, 1, col. 3; Nigel Wade, "Ragged Peasants Wait for Post-Mao Justice," *Daily Telegraph*, 16 March 1979, 5, col. 1; "400 Ragged Provincials in Peking," *New York Times*, 9 August 1979; *China: Violations*, note 26 above, 5.

out from the remarks of Chinese officials information about workers' strikes, slowdowns, and calls for independent trade unions.<sup>185</sup>

The opening of parts of Tibet to foreign visitors in the late 1970s provided up-to-date information on conditions in the Tibetan "autonomous region" for the first time since the 1950 Chinese invasion.<sup>186</sup> Both foreign correspondents and representatives of Tibetans abroad were allowed entry and could begin to evaluate the extent to which Tibetan culture, religion, and social traditions had survived the Chinese occupation and the onslaught of the Cultural Revolution. Certainly, Tibetans risked punishment for providing information to foreign visitors. Several were arrested in 1980 after welcoming representatives of the Dalai Lama, Tibet's religious leader who fled in 1959 and set up a "government-in-exile" abroad. Hundreds were arrested and several reportedly executed in 1983 after handing petitions to foreign journalists on Tibetan independence. And more than 100 Tibetans were reportedly arrested in 1986 for alleged ties to Tibetan groups abroad.<sup>187</sup>

Although difficulties clearly abound, access to China has become much greater today and information on conditions of human rights more readily available than in the past. Moreover, with large numbers of Chinese now traveling and studying abroad, opportunities for obtaining information have increased even more. The Chinese government in the late 1970s began to allow tens of thousands of its citizens to go abroad each year to study, conduct business, or visit relatives. Beginning in 1980, more than 100 PRC delegations started to visit the United States each month. From October 1983 to October 1984, the U.S. government alone issued 24,000 visas to Chinese. In 1986, between 30,000 to 40,000 Chinese were estimated to be studying abroad, up to 20,000 in the United States and thousands of others in Western Europe and Japan.<sup>188</sup>

As a result of this influx of Chinese visitors, both Western scholars and NGOs have been presented with abundant opportunities to learn about

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185. Michael Weisskopf, "Chinese Official Confirms Reports of Labor Unrest," *Washington Post*, 30 April 1981, sec. A, 30, col. 4; see also C. S. Wren, "China's Unrevolutionary Constitution," *International Herald Tribune*, 4-5 December 1982.

186. Mary-Louise O'Callaghan, "Buddha Smiles Again as Tibetans Triumph," *Guardian*, 25 May 1985; Michael Weisskopf, "Separatists Keep Up Struggle for Free Tibet," *Washington Post*, 13 August 1985; G. Taylor, "Terms of Reference," *Guardian*, 2 September 1985; Letter to the Editor from Chinese Ambassador, *The Times*, 20 September 1985, 15, col. 4; Letter to the Editor from James Gordon Mackie, *The Times*, 5 October 1985, 9, col. 14.

187. See "Tibetan Exiles' Delegates Return Disappointed," Tibetan News Agency, London, 29 September 1980; Press Release, Office of Tibet, New York, 26 September 1985; Op. Ed., *International Herald Tribune*, 3 June 1986.

188. See Department of State, *Country Reports on Human Rights Practices for 1984* (Washington, D.C.: U.S. Government Printing Office, 1985), 743; 1985 Hearings, note 25 above, 179; statement of Patricia M. Derian in 1980 Hearings, note 1 above, 31; George Shultz, "China and the U.S.," *Current Policy* 930 (Department of State, March 1987).

human rights conditions in China. Certainly, the Chinese have tried to monitor the activities of their citizens abroad to ensure that they do not provide information that could be compromising to China.<sup>189</sup> Despite the restrictions, however, several Chinese academics studying in the West have taken up the cause of human rights in the PRC. In 1982, 132 Chinese academics studying in the United States and Canada sent a letter to the PRC protesting the arrest, secret trial, and imprisonment of Wang Xizhe, a Marxist intellectual. They called his fifteen year sentence unconstitutional and a breach of criminal law. They requested that the record of his trial be made public and that public trials be given to all Chinese arrested for association with unofficial journals.<sup>190</sup> In 1987, 1,000 Chinese studying in the United States endorsed an open letter to their government (480 actually signed their names), protesting the crackdown on intellectuals following student demonstrations for greater democracy and freedom. The letter expressed "fear" about a "recurrence" of the Cultural Revolution "in which 'ruthless struggle and merciless criticism' were rampant."<sup>191</sup>

Still other Chinese academics have defected in order to take up the cause of human rights. A Chinese medical doctor in Canada, Wang Bingzhang (the first Chinese to earn his Ph.D. abroad on a government scholarship since the 1960s), defected in 1982 to found the journal *China Spring*. Contributors to the journal included Chinese studying in the West who, in order not to jeopardize their return, used pseudonyms. The journal's name was both a reminder of Prague Spring<sup>192</sup> and of the brief flowering of the Democracy Movement in China. Its aim was to support the development of democracy in China and "give our people (including those in Taiwan and Hong Kong) a real opportunity to choose what they want in terms of government and political beliefs." *China Spring's* first issue, published in December 1982 in the Chinese language, gave information on China's democratic movement and included an open letter to the Chinese people urging support for democracy, freedom, and human rights. In 1986, *China Spring* serialized the 262-page prison memoirs of dissident Xu Wenli, which had been smuggled from a Beijing prison to Hong Kong the previous year. The memoirs revealed that Xu underwent 200 interrogation sessions, and that prisoners were beaten and "electronically shocked" in Chinese jails.

189. J. Mann, "U.S. Warns China on Envoys' Activities," *International Herald Tribune*, 3 December 1985.

190. See 1982 Hearings, note 57 above, 365.

191. Martin, note 90 above; Ravo, note 90 above.

192. The Prague Spring was the brief period in Czechoslovakia in 1968 when proponents of reform and democracy took over the government, only to be arrested and crushed following the arrival of Soviet troops. For a description of China Spring, see *North American Human Rights Directory*, note 83 above, 69; *Spehrhead* 16 (Northern Winter 1982-83): 2-4, 19; *Spehrhead* 18 (Northern Summer 1983): col. 44; "China Spring," *Freedom Appeals*, *Freedom at Issue* (September-October 1983); "China Activists Find Voice in West," *International Herald Tribune*, 12 January 1983; Robert Boorstin, "China Opposition Emerges in Queens," *New York Times*, 17 May 1987.

Although the Chinese abroad who are involved in human rights remain few in number, they and other Chinese visitors have contributed substantially to the information available about the PRC. They also have served another important function. With increasing numbers of Chinese academics and professionals becoming personal friends of Westerners, the ties forged have produced a greater Western involvement, interest, and stake in the human rights situation in China. Thus, in 1982, when a Harvard-educated Chinese lawyer was arrested in Beijing, his friends and colleagues in the United States launched a successful campaign for his release by sending letters to Chinese officials, by intervening directly with Chinese embassies and consulates, and by giving messages both to those visiting China and to Chinese visitors to the United States.<sup>193</sup>

Hong Kong, especially in the late 1970s, became another excellent source of information on human rights developments in the PRC. Hong Kong has traditionally been a listening post for events in China, and Hong Kong's journalists, intellectuals, political leaders, and students were able to travel more freely to the PRC after China's open door policy was introduced. Articles in Hong Kong journals and newspapers, although often in Chinese, proliferated on the Democracy Movement, the trial of dissidents, China's new constitution, and other issues bearing on human rights.<sup>194</sup> Hong Kong journals sometimes had better information than the foreign press because Chinese government officials occasionally leaked information to the Hong Kong papers. From 1975 to 1980, it is estimated that 460,000 Chinese entered Hong Kong, most of them illegally, bringing with them first-hand information about the PRC.<sup>195</sup> A number of those who fled to Hong Kong in the wake of the Cultural Revolution, in particular former Red Guards, openly began to engage in activities in support of greater liberalization in China. And in intellectual circles in Hong Kong, considerable support developed for China's burgeoning Democratic Movement. At both the University of Hong Kong and the Chinese University of Hong Kong, groups formed to defend Chinese human rights activists. The Hong Kong Student Union published the essays of democratic activists in 1982 together with its own observations on the Democracy Movement.<sup>196</sup>

In 1981 the Resource Center for the Chinese Democratic Movement established itself in Hong Kong to facilitate communication between the Democracy Movement and the outside world. It issued statements on behalf

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193. "Disappeared Lawyer: Hanson Huang," *Speahrhead* 19 (Fall 1983): cols. 34-38.

194. See "The Heavies Struggle to Make Ends Meet," *Far Eastern Economic Review*, 13 February 1986, 30-31; *Speahrhead* 18 (Northern Summer 1983): cols. 16-18, 34. A large amount of material from Hong Kong has been translated into English by the U.S. government's Foreign Broadcast Information Service and Joint Publications Research Service.

195. See Butterfield, *China: Alive*, note 4 above, 503; Shirk, note 33 above, 109, 122; Jean de la Guervièrre, "Chine: Selon d'Anciens Gardes Rouges," *Le Monde*, 17 April 1979; Chan, note 49 above, 32-34.

196. *Speahrhead* 16 (Northern Winter 1982-83): 13, col. 2.

of arrested dissidents and published a Monthly Bulletin in Chinese and English which provided information on political arrests, summarized the contents of unofficial journals, and printed the texts of open letters and other documents.<sup>197</sup>

A more activist group also formed the same year to work for the release of arrested dissidents. Called the Hong Kong Association for Solidarity with the Chinese Democratic Movement,<sup>198</sup> its members sometimes visited China at considerable personal risk. Liu Shanqing, an Association member, was arrested in the PRC in 1981 after making inquiries about arrested dissidents Wang Xizhe and He Qui, and was sentenced to ten years imprisonment for "counter-revolutionary" offenses.<sup>199</sup> A "Save Liu Shanqing Committee" formed in Hong Kong but was unable to secure his release although its members met with Chinese officials and obtained British intercession with the Chinese as well. Others who undertook similar missions were more fortunate; they did not meet with reprisal, and they secured important information. Student leaders who undertook a "mission" to China in 1982, also to determine the status of Wang Xizhe and He Qui, were able to confirm the trial and imprisonment of the two, and returned to Hong Kong with the information.<sup>200</sup>

Religious groups in Hong Kong also became important sources of information about China.<sup>201</sup> The United Methodist Church of Hong Kong regularly reported about the resurgence of religion in China following the Cultural Revolution's efforts to stamp it out, and about the release of religious leaders from prisons and labor camps. It also published the texts of open letters from official Christian bodies in China to their co-religionists abroad. Hong Kong church organizations also began to develop direct contact with both official and unofficial church members in the PRC. The Roman Catholic Bishop of Hong Kong in 1985 became the first Chinese Catholic bishop to visit the PRC since 1949.<sup>202</sup>

197. See *Human Rights Internet Reporter* 6 (January-February 1981): 378; (May-June 1981) 752-753; *Human Rights Internet Reporter* 7 (January-February 1982): 579-80.

198. *Human Rights Internet Reporter* 7 (September-October 1981): 142.

199. Wang Xizhe, together with He Qui, founded the unofficial journal *The Road of the People* in Guangzhou. See *AI Report 1984*, note 30 above, 220; *Speahrhead* 16 (Northern Winter 1982-83): 18.

200. See *Human Rights Internet Reporter* 7 (June-August 1982): 1033-34; *Human Rights Internet Reporter* 9 (September-November 1983): 115-116. The Association also organized a campaign in defense of the right to strike following reports, which proved true, that this right was to be omitted from the 1982 Constitution. Its Bulletin reported on prolonged "wildcat strikes" in China which it said "are almost unknown to the outside world," on the low wage system, harsh working conditions, and on housing shortages.

201. *Human Rights Internet Reporter* 9 (March-June 1984): 556-557; see also *China Talk*, (Hong Kong: United Methodist Church) 5 (April, June, September 1980) and subsequent issues; *Ching Feng and Bridge: Church Life in China* (Hong Kong: Tao Fong Shan Ecumenical Centre).

202. See "China Invites Bishop Home to See Mother," *The Times*, 4 January 1986, 5, col. 4, *Hong Kong Link* 1, (March 1986); for visit of Chairman of China Christian Council to Hong Kong, see *Human Rights Internet Reporter* 10 (September-December 1984): 212.

Although Hong Kong's transfer to Chinese administration in 1997 will diminish its role, it is at present an important source of information on human rights in China. Certainly, Hong Kong residents have taken risks when they have sought to collect sensitive information from the PRC, intercede on behalf of arrested dissidents, or engage in publicized human rights activities. PRC students in Hong Kong have run the risk of being barred from returning to China. Hong Kong writers and editors have been arrested on visits to the PRC, and there have also been cases of arrests or dismissals of PRC officials because they provided information to publications in Hong Kong.<sup>203</sup> While these and other actions by the Chinese government undoubtedly have discouraged the efforts of many, they have not stopped some in Hong Kong from collecting and disseminating information and from undertaking activities in defense of human rights.

The information made available by Chinese and Hong Kong sources gradually found its way into Western publications and journals in the late 1970s. As a result, full, first-hand accounts became available in English of the trial transcripts of political prisoners, the prison diaries of detainees, profiles of human rights activists, and the texts of wall posters and unofficial journals. In the forefront of providing such information to NGOs and the public were *Index on Censorship* in London, *Freedom Appeals* and *Freedom at Issue* in New York (publications of Freedom House), and *Speahrhead* in New York. *Index* translated and published in English extracts from the prison memoirs of Xu Wenli and provided biographical data on arrested dissidents. *Freedom Appeals* and *Freedom at Issue* made available in English the testimony of Democracy Movement activists and published lists of unofficial journals. *Speahrhead*, drawing on Chinese official sources, unofficial journals, and Hong Kong publications, categorized human rights information on China according to the provisions of the Universal Declaration of Human Rights.<sup>204</sup> In 1985, a publication devoted exclusively to human rights in China appeared under the title of *China Rights Annals 1*.<sup>205</sup> Sponsored by Speahr (the Society

203. See "Visitors from Hong Kong," *Speahrhead* 16 (Northern Winter 1982-83): 17-18; *Speahrhead* 18 (Northern Summer 1983): cols. 31-32, 45-47; *Speahrhead* 19 (Fall 1983): cols. 42-46, 52-53. See also, *Amnesty International Report 1981* (London: Amnesty International Publications, 1981), 211-212 (for arrest of Hong Kong writer and art critic Fang Dan); 1985 Hearings, note 25 above, 72 n.17, 98, 290 (for dismissal of law journal editor Hu Yaochang after his interview with a Hong Kong journal).

204. See *Index on Censorship*, in particular, July-August 1978, September-October 1979, February 1980, April 1981. For Xu Wenli's "My Self Defence," see *Index on Censorship* 15 (May 1986): 18-25; see also a listing of "Imprisoned Members of the Democracy Movement," *Index on Censorship* 15 (May 1986). See *Freedom Appeals*, in particular, September-October 1979, May-June 1980, November-December 1980, March-April 1981, May-June 1981, September-October 1981, January-February 1982 and subsequent issues. See *Freedom at Issue*, (May-June 1979): 8-10; (May-June 1980): 10-13; Lui Guokai, "The Democratic Movement in China: Personal Testimony," (March-April 1982): 20-24; Wang Xizhe, "A Challenge to Party Leadership," November-December 1982. See *Speahrhead* 1-19, 1979-1983.

205. *China Rights Annals 1*, note 60 above.

for the Protection of East Asians' Human Rights), the book examined both political and economic rights in the PRC from October 1983 until September 1984, pulling together "much of the current information about human rights in the People's Republic of China" and analyzing it in terms of international human rights standards. *China Rights Annals 1* relied on information mainly derived from "official Chinese sources," noting that in recent years "Chinese reporting has become much more accurate." Many other books, articles, and reports appeared in the West on human rights development in China as well,<sup>206</sup> making it increasingly difficult to argue that an information gap still is a serious impediment to dealing with human rights in China.

### NGOs Point the Way – The Role of Amnesty International

Although most NGOs did not add human rights in China in any significant way to their programs, a few did begin to challenge the prevailing assumptions against dealing with China. In France, the Paris-based Fédération Internationale des Droits de l'Homme intervened with the Chinese authorities in 1979 on behalf of arrested members of the Democratic Movement. The organization also began to publicize human rights information on China, and protested the executions of the "anti-crime" campaign.<sup>207</sup> In the United States, the executive director of Freedom House presented a list of eighty banned publications to Chinese officials. The organization also convened a conference to consider ways of promoting democracy in the PRC and Taiwan. Although most scholars at the conference opposed overt actions by NGOs or governments to advance democracy in the PRC, they did support

206. See, for example, Edwards, Henkin, and Nathan, note 3 above; Copper, Michael, and Wu, note 32 above, Heng and Shapiro, *Intellectual Freedom*, note 18 above; James D. Seymour, ed., *The Fifth Modernization: China's Human Rights Movement 1978-79*, (New York: Earl M. Coleman Enterprises, 1980); International Press Institute Reports, May 1981, October 1982, Zurich and London; Merle Goldman, *China's Intellectuals: Advise & Dissent* (Boston: Harvard University Press, 1981); Chen Ruoxi, *Democracy Wall and the Unofficial Journals* (Berkeley: Center for Chinese Studies, University of California, 1982); Huang San, Angel Pino, and Lionel Epstein, eds., *Un Bol de Nids d'Hirondelles ne Fait pas le Printemps de Peking* (Paris: Christian Bourgois Editeur, Bibliotheque Asiatique, 1980); Victor Sidane, ed., *Le Printemps de Peking: Oppositions Democratiques en Chine, Novembre 1978-Mars 1980* (Paris: Collection Archives, Gallimard/Juillard 1980).

207. See "After Mao, Democracy?" *Le Cri des Hommes* 6 (FIDH, December 1979); "Legal Practices and Human Rights in China," *Le Cri des Hommes* 22 (FIDH, November 1984); *China Rights Annals 1*, (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 42. The Federation's French affiliate also organized public appeals by leading intellectuals on behalf of arrested dissidents. One of its members, Jean Pasqualini, himself had been interned in a Chinese labor camp for seven years and sought to mobilize French opinion on behalf of human rights in China. See "Ad of Ligue des Droits de l'Homme," *Le Monde*, 29 March 1985. According to *Human Rights Internet Reporter* 7, note 198 above, 141, a group called Comité International Contre la Répression campaigned for Wei Jingsheng's release in 1981.

public and private diplomacy to counter individual human rights violations.<sup>208</sup>

Most other NGOs took no major steps or sustained actions.<sup>209</sup> Religious organizations had special reasons. Because they sought to re-establish contacts with their co-religionists in the PRC, they did not want to take any action that might offend the Chinese government. A representative of the Presbyterian Church of Canada wrote, prior to a visit to the PRC in 1973:

In planning our visit . . . we purposely excluded contact with the Church as one of our objectives. . . . [w]e felt it better not to seek Church contact lest it might be embarrassing to Chinese Christians trying to carry on church activities quietly.<sup>210</sup>

To be sure, the renewal of contacts was fraught with difficulties, especially for Roman Catholics. Chinese religious leaders who communicated too readily with foreigners, who acknowledged allegiance to the Vatican, who distributed unofficial church literature, or who refused to join the official or "patriotic" religious bodies created by the government were subject to harassment, arrest, or imprisonment.<sup>211</sup> At the same time, the post-Mao leadership, unlike its predecessors, tolerated and encouraged organized religious activity, allowed houses of worship to reopen, and permitted foreign church representatives to visit China and official church delegations to go abroad.<sup>212</sup> To preserve these new ties, many Western-based religious organizations, while publishing information on religious persecution in China,<sup>213</sup> generally refrained from undertaking campaigns on behalf of arrested or harassed church members. While Pope John Paul II in 1982 did call

208. See Freedom House Conference, note 57 above, 298–299, 302–305, 316–317.

209. The International Human Rights Law Group did on one occasion testify before the Senate on arrests of democracy activists, a commendable initiative; see note 41 above. The International League for Human Rights added Wei Jingsheng to its Human Rights Defenders Project, a program mobilizing support for endangered human rights advocates. See ILHR *Human Rights Bulletin*, Summer 1983. The Lawyers Committee for Human Rights in 1984 included a section on China in its annual Critique of the State Department's Human Rights Reports, published jointly with Helsinki Watch and Americas Watch, New York, March 1984.

210. Hollander, *Political Pilgrims*, note 28 above, 285.

211. See *AI Report 1983*, note 24 above, 193–194; *AI Report 1984*, note 30 above, 218; Amnesty International Newsletter, London, November 1983; Heng and Shapiro, *Intellectual Freedom*, note 18 above, 51–53; Miriam London and Ta-ling Lee, "China: The Uses of Religion," *Freedom at Issue* (March–April 1984): 14–16; Ladany, *The Catholic Church*, note 54 above, 35–50, 54–55, 87–92.

212. See "Our Party's Basic Policy on Religious Questions During the Period of Socialism," *Red Flag*, editorial, Beijing, 16 June 1983; see also statement of James Lilley, 1985 Hearings, note 25 above, 114–118; Heng and Shapiro, *Intellectual Freedom*, note 18 above, 46–48; Copper, Michael, and Wu, note 32 above, 83–84; "Protestant Seminary Reopened," *Human Rights Internet Reporter* 7 (November–December 1981): 413; "Chronicle: Chinese Protestant Delegation to Britain, 1982," *Religion in Communist Lands* 11 (UK: Keston College, Spring 1983): 93–94; *China and Ourselves*, no. 23, 24 (Toronto: Canadian Council of Churches, November 1980, February 1981).

213. See P. Morrison, "Religious Policy in China and its Implementation in the Light of Document No. 19," *Religion in Communist Lands* 12 (UK: Keston College, Winter 1986):

upon Catholic Bishops all over the world to pray for Chinese Catholics,<sup>214</sup> religious groups generally have kept a low profile, turning to governments and NGOs like Amnesty International to take up their cases privately.

Amnesty International in fact has been the one NGO systematically and fully to take up the challenge of promoting human rights in China. Although it did not act on Chinese violations during the Cultural Revolution, both for lack of information and fear that doing so would be harmful,<sup>215</sup> in the mid-1970s it adopted a new position. It began to espouse the view that NGOs should actively seek information about the PRC, precisely because China attempted to close off information and silence those who tried to disseminate it. Amnesty's Secretary-General Thomas Hammarberg described his organization's position in these terms:

[M]ore efforts must be made to obtain information from those countries where the authorities try to close their frontiers and prevent a flow of human rights data. People who have been imprisoned because of their attempts to obtain, transmit or disseminate facts about human rights violations should be the subjects of intense campaigning.<sup>216</sup>

A second reason for Amnesty's insistence on condemning China's human rights violations was the importance it gave to the achievement of "political balance." In the introduction of its 1975–1976 report, Amnesty emphasized:

Much attention was also given during the year to the *political balance* and impartiality which are fundamental considerations for AI. The fact that information on individual prisoners is more easily available from certain countries than from others has sometimes resulted in a degree of apparent selectivity in taking action on relatively accessible areas while keeping silent over the more closed societies. . . .<sup>217</sup>

Its 1978 report reaffirmed this view:

[B]alance is not easy to establish. There are still some few countries where the authorities refuse to have any communication with Amnesty International: they will not admit observers or representatives and our letters and cables receive no reply. These same regimes have a restrictive approach to the international media

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242–256; *China and Ourselves*, no. 21, 27 (Toronto: Canadian Council of Churches, July 1980, September 1981); *AI Report 1982*, note 17 above, 192; "Attacks on Unofficial Churches," *Human Rights Internet Reporter* 9 (March-June 1984): 556–557.

214. Ladany, note 54 above, 41; *Freedom at Issue* (July-August 1982): 24.

215. Prior to 1976, Amnesty did take up—through indirect means—the cases of foreign nationals imprisoned in China about whom it could obtain information. It did so indirectly (through government representatives or parliamentarians) because it feared that doing so directly might harm the persons involved.

216. Thomas Hammarberg, "Human Rights: The Battle for Information," *International Herald Tribune*, 12 April 1985.

217. *Amnesty International Report 1975–76*, (London: Amnesty International Publications, 1976), 11.

and little, if any, detailed information on the human rights situation in their countries therefore exists. Our movement has made great efforts to break through such situations. . . .<sup>218</sup>

While most other organizations remained discouraged by the difficulties the Chinese situation presented, Amnesty insisted on the right to operate in the case of China. Beginning in 1976, the organization launched a "research project" on China and assiduously began to collect information from academics, journalists, and the official and international press.<sup>219</sup> It developed contacts in Hong Kong, where it sent representatives several times in 1976 and 1977. The organization also wrote directly to the Chinese government for information.

With the advent of the post-Mao leadership in China, Amnesty decided that publicity and attention would help rather than harm Chinese prisoners of conscience. By 1977 Amnesty began to adopt Chinese prisoners of conscience. Its first adoptees were prisoners held for more than twenty years about whom information had begun to surface; Amnesty acknowledged that research was continuing into the cases of "people arrested recently."<sup>220</sup> When it could not secure the names of those arrested, Amnesty sent appeals to the Chinese authorities urging the release of "categories" of prisoners, such as "counter-revolutionaries." Its 1978 report emphasized that despite the difficulty of obtaining information about individual cases, "almost a quarter of the Asia region's researcher capacity was devoted throughout the year to the research program begun in 1976 on China."<sup>221</sup>

At the end of 1978, Amnesty published its first report on China, *Political Imprisonment in the People's Republic of China*. It was, in fact, the first report of any human rights NGO on the People's Republic. While the report welcomed reforms being undertaken in China, including the release and rehabilitation of former prisoners, these positive developments did not cause it to close its eyes to recent abuses. The report expressed concern that despite announced reforms, "arrests on political grounds are continuing and that the legislation permitting imprisonment on such grounds is still operative."<sup>222</sup> It drew attention to unlimited pre-trial detention, forced confessions, and the subjection of political detainees to secret or "mass public trials." The report pointed to provisions in the new 1978 Constitution which called for punishing political offenders, limiting freedom of expression and religion, and depriving whole categories of peoples of their rights. While Amnesty acknowledged that its information on China was sparse, it contended that a

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218. *Amnesty International Report 1978*, (London: Amnesty International Publications, 1978), 2-3.

219. *AI Report 1975-76*, note 217 above, 123.

220. *Amnesty International Report 1977*, (London: Amnesty International Publications, 1977), 176, 179.

221. *AI Report 1978*, note 218 above, 29.

222. *Political Imprisonment*, note 11 above, preface.

credible and well-documented account of political imprisonment could be produced on the basis of official documents and accounts of former prisoners and refugees:

Actual details have been obtained mainly from statements by former detainees and prisoners, by their acquaintances or by refugees familiar with aspects of the legal process . . . the accounts of various people who do not know each other and who come from different places in China often present the same picture of a particular event and penal practice. . . . Although some details are difficult to check, such accounts present a pattern in various aspects of political imprisonment which is to a large extent confirmed by official documents; taken as a whole, they can therefore be regarded as convincing testimonies.<sup>223</sup>

By 1980 Amnesty was able to obtain information on newly arrested prisoners and thereafter added to its adoption program, twenty editors and contributors to unofficial journals, five Roman Catholic priests, activists in the Democracy Movement, and Tibetans.<sup>224</sup> Although Amnesty continued to acknowledge that information about political prisoners was often "incomplete," it began to use the information it got to put together a broader picture. Its 1984 annual report thus estimated that "the prisoners of conscience of whom it was aware represented only a fraction of the total number of those detained." The report similarly extrapolated "that the total number of executions carried out throughout the country was far higher" than the more than 600 Amnesty had been able to document between August and October 1983 during the "anti-crime" campaign.<sup>225</sup> And "special actions" to help Chinese prisoners were undertaken by Amnesty groups despite the incomplete information.<sup>226</sup> Even in the case of secret trials, the organization collected whatever information it could about the proceedings and in a number of instances issued press releases on their fairness.<sup>227</sup>

A second Amnesty report published in 1984, *China: Violence of Human Rights*, pointed out that despite the major legislative changes of 1979 and 1980, legal safeguards were not being applied in political cases. The new criminal codes and laws did not give adequate protection against arbitrary arrest nor ensure fair trials. Old laws had been revived that authorized detention without trial and further diminished the rights of political defendants. The new 1982 Constitution included restrictive clauses on religion and omitted freedom of correspondence, publication, and the right to strike. Amnesty listed its concerns about the PRC as the continued arrest and imprisonment of prisoners of conscience, prolonged detention without trial of those

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223. *Ibid.*, xiii.

224. *AI Report 1980*, note 3 above, 192-193; *AI Report 1982*, note 17 above, 190-194.

225. *AI Report 1984*, note 30 above, 216-218.

226. *AI Report 1982*, note 17 above, 8.

227. *Amnesty International Report 1981*, (London: Amnesty International Publications, 1981), 207-209.

with "anti-socialist" views, unfair trials, ill-treatment of prisoners, and extensive use of the death penalty in an increasingly broad range of criminal and political offenses.<sup>228</sup> Because the Chinese government did not respond to an Amnesty memorandum setting forth these concerns, Amnesty published the text in the report. Actual trial verdicts, sketches of prisons, texts of laws, and profiles and photographs of leading political prisoners were included in the report, reflecting the increase in information available about China as well as Amnesty's effective use of such information.

To coincide with the report's publication, Amnesty organized a "campaign" on China to draw attention to "patterns of human rights violations" and to put pressure on the Chinese government to halt abuses.<sup>229</sup> The Amnesty campaign lasted several months, with many local groups worldwide participating. The effort produced a large number of press stories, letters, and appeals to the government, making the Chinese aware of international concern about their human rights practices.

The results of Amnesty's program over the last ten years have been impressive. The organization has developed an effective research system for China, as evidenced by the highly competent reports it has produced. On the basis of its information, it has undertaken a variety of actions ranging from quiet diplomacy to publicizing internationally Chinese violations. While the effectiveness of its activities is discussed more fully later, suffice it to say here that Chinese officials have begun to meet with Amnesty representatives to discuss human rights issues and that several prisoners of conscience, adopted by Amnesty, have been released.

This is not to suggest that all NGOs should follow the Amnesty blueprint. Amnesty is the largest and best endowed of the international human rights NGOs. Because of its large research staff, it can afford to carry out the collection of documents, translation of materials, and development of contacts essential for an effective program. Moreover, its terms of reference are narrower than most other NGOs, which might have to collect information on a broader range of political, legal, and economic issues. Religious organizations may continue to find it more advantageous to promote contacts with local groups rather than risk losing their access to China by undertaking campaigns against its human rights violations. Nevertheless, Amnesty's efforts show that the premise that it is too difficult to deal with China because of information problems is false. Its activities also show that it is possible for an NGO to assume the same watchdog role and apply the same human rights standards to China as it does to other countries. Moreover, Amnesty has not had to forego its right to criticize China in order to discuss human rights issue with the Chinese. In many respects, Amnesty's ef-

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228. *China: Violations*, note 26 above.

229. *AI Report 1985*, note 18 above, 8.

forts in dealing with China's human rights violations sets an example for all other groups.

### **Growth of a Lobby**

Although no organized lobby for human rights in China as a whole has emerged, the journal *China Spring* occasionally has come close to acting as a lobby on behalf of human rights in the PRC.<sup>230</sup> Its founder has organized seminars and embarked on speaking tours throughout the United States to promote the journal and its objectives. Its officers have held press conferences to publicize human rights cases in China. In 1984, its editors publicly protested U.S. denial of asylum to a Chinese physicist and charged the existence of a double standard for Soviet and Chinese asylum seekers. The journal's information has been used regularly by China experts, NGOs with Chinese specialists on their staffs, and publications such as *Index on Censorship*. Recently it has begun to publish some of its editions in English to reach a broader audience. Although its staff is small, *China Spring* now has offices in New York, Hong Kong, and a host of West European and Asian countries. It has increased the interest of Chinese communities abroad in the subject of human rights in the PRC. All 6,500 copies of the journal's first issue sold out, and the magazine received 2,000 letters of support and contributions from Chinese residents in North America. Today its circulation is 25,000 with 1,000 additional copies distributed *samizdat* in the PRC. While its impact on decision makers in the West remains marginal, it has the potential to enlist groups in the West and in Asia to give China the attention in the 1980s it did not receive before.

Nevertheless, no permanent China lobby can yet be said to exist. The Tibetan pressure group is the closest to a traditional lobby to have emerged, and it is led by representatives of the Dalai Lama. Beginning in the 1970s and 1980s, Tibetans in the West and in Asia, representing their spiritual leader, began to put pressure on NGOs and governments to take up the religious and cultural rights of their people. Tibetans had mobilized considerable support after China's 1950 invasion and the Dalai Lama's flight to India in 1959, and they energetically renewed their activities in the 1970s after China opened its doors and allowed foreign visitors into the region.

Their efforts were timely because the Chinese government, after the death of Mao, openly admitted the failure of its policy to Sinocize the Tibetans and other minorities and began to undertake steps to make amends. The 1982 Constitution restored and enlarged national minority rights. In the Tibetan "autonomous region," Buddhist religious practices were again allowed, although on a restricted basis, several temples and monas-

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230. See note 192 above; Mathews, note 145 above.

teries were rebuilt, the Tibetan language was allowed to be taught, and travel permits were made more readily available. Chinese authorities also initiated talks with representatives of the Dalai Lama, although they have forbidden him from returning to live in Tibet.<sup>231</sup> These steps, however, were meager compensation for China's earlier efforts to eradicate Tibetan culture, religion, and way of life, and its destruction of thousands of monasteries and temples during the Cultural Revolution. Nor did the improvements make current violations of Tibetan rights more palatable.<sup>232</sup>

Consequently, the Office of Tibet at the United Nations in New York, the Tibetan Relief Fund of the United Kingdom, and the Tibetan community of India actively began to publicize violations brought to their attention and sought international support for improvement in Tibetans' status. They sent representatives to visit Tibet, prepared reports on human rights abuses, and brought to governments, NGOs, journalists, and the public specific cases of Tibetans arrested or imprisoned on religious and political grounds.<sup>233</sup> They also sought endorsement for their goal of self-determination for the Tibetan people.

While many in the academic and human rights communities shied away from responding for fear of offending the Chinese, a good number of NGOs, governments, and parliamentarians took up the Tibetan organizations' appeals. The Minority Rights Group in London issued a report on the Tibetan situation in 1981.<sup>234</sup> Amnesty International in the late 1970s began to take up the cases of Tibetans arrested for political or religious reasons.<sup>235</sup> Freedom House cabled the Chinese authorities urging the release of hundreds of Tibetans arrested in August 1983 and a halt to executions reported thereafter.<sup>236</sup> A full page ad in the *New York Times* on 6 October 1983, spon-

231. See Minority Rights Group, *The Tibetans*, no. 49, May 1981; Bonavia, *Verdict*, note 1 above, 135–139; "Ethnic Minorities," *China Rights Annals 1*, (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 84–85; Statement of the Dalai Lama, Office of Tibet, New York, 10 March 1984; C. S. Wren, "Chinese on Tibet," *International Herald Tribune*, 11 May 1983; for a discussion of minority rights in the 1982 Constitution, see Edwards, Henkin, and Nathan, note 3 above, 118–119; for PRC refusal to allow the Dalai Lama to return, see Jonathan Mirsky, "No Political Prisoners in China, Says Hu," *Irish Times*, 12 June 1986; "Tibetan Exiles' Delegates Return Disappointed," Tibetan News Agency, London, 29 September 1980; *Tibetan Review* 17 (April, May 1982); *Far Eastern Economic Review*, 27 October 1983, 28.

232. See note 187 above; John Avedon, "Why Are Tibetans Forgotten?" *International Herald Tribune*, 2 April 1987; "Tibet: A Homeland in Chains," *The Times*, 20 August 1985.

233. See *Chinese Human Rights Abuses in Tibet: 1959–1982*, Office of Tibet, New York, 7 October 1982; F. R. Hyde-Chambers, *Tibet and Human Rights*, (London: The Tibet Society of the UK, the Tibetan Community in the UK, and the Office of Tibet, 20 March 1984); T. Lhundup, "A Brief Summary of Conditions in Tibet," *News Tibet* 20 (New York: Office of Tibet, 1983); *The Tibetan Review*, New Delhi, September 1983; House Committee on Foreign Affairs and its Subcommittee on Human Rights and International Organizations, *Hearings on Religious Persecution as a Violation of Human Rights*, 97th Cong., 2d sess., 1982, 926–931.

234. See note 231 above.

235. See *AI Report 1979*, note 2 above, 87–88.

236. Freedom House Press Release, New York, 5 October 1983.

sored by the Tibet Fund USA together with forty Canadian and American Tibetan groups, also appealed for an end to executions.<sup>237</sup>

Because of the active pro-Tibetan lobby in the United States, New York State proclaimed March 10th "Tibetan Day."<sup>238</sup> Approximately 150 members of Congress presented a letter to the visiting president of China in 1985 on the situation in Tibet. Their press release pointed out that the letter's broad bipartisan support in both houses

is indicative of a growing interest and sympathy for the plight of the Tibetan people and the increasing support of their religious and political leader, the Dalai Lama. . . . China can ignore this only at the peril of creating one more cause for strain in Sino-U.S. relations.<sup>239</sup>

At the same time, members of Congress clearly wanted to avoid antagonizing the PRC, and the letter contained few specifics. Their press release even noted that "no reference" was made in their letter to "sensitive questions such as human rights," or to claims that "there are some 100,000 Tibetans in prisons for religious or political activities."

In Britain, the U.K. government, also harking to the urgings of Tibetan groups, became more forthcoming in its responses to parliamentary questions on Tibet in the 1980s. Ministers emphasized the autonomous status of Tibet and welcomed recent human rights improvements. Officers of the Parliamentary Human Rights Group met with the Dalai Lama, and in 1985 the group, composed of 122 members of the British Parliament, sent a letter to the Chinese prime minister. The letter referred to the Tibetan people's "justifiable and reasoned aspirations" for the "maintenance of their cultural identity, their religious practices, their economic well-being and for their need to manage their own affairs."<sup>240</sup>

While increased attention has been paid Tibet, the issue of "self-determination" has been carefully skirted. No one has wanted to challenge China in this area. One reason is that China *de facto* controls Tibet and insists that the territory is part of China. The tendency internationally has been to recognize PRC sovereignty over the territories it claims, whether it is Tibet, Hong Kong, or Macao (Taiwan still remains an exception). Self-determination has proven politically sensitive for other reasons as well. There are fifty-five officially recognized ethnic minorities in the PRC, and it is argued that claims for Tibetan self-determination could well set off claims by

237. *Human Rights Internet Reporter* 9 (September-November 1983): 117.

238. March 10 commemorates the 1959 Tibetan uprising in Lhasa against the Chinese annexation. See "Governor and Mayor of New York Support Tibetan Cause," *Tibetan Review* 18 (19 February 1983).

239. Letter of 9 July 1985 to President Li Xiannian by Congressman Charles Rose and Senator Claiborne Pell, Washington, D.C.; Press Release, 24 July 1985.

240. See PHRG Newsletter no. 1, London, October 1983; Letter to Prime Minister Zhao Ziyang signed by PHRG Chairman, 23 December 1985, (unpublished).

other groups which the Chinese would not tolerate. Some China experts, as a result, have specifically opposed raising the "delicate" issue of minorities with the Chinese and even have avoided giving opinions on the status of Tibet.<sup>241</sup> Governments have found the issue of self-determination threatening because it could be applied to them as well. Among China's neighbors, for example, India could hardly be expected to champion Tibetan independence after annexing Goa and Sikkim and exercising extensive control over Bhutan. Although in the 1950s and 1960s India took in thousands of Tibetan refugees and deplored the PRC's violation of Tibet's autonomy, in 1983 Prime Minister Indira Gandhi, while serving as chairperson of the Non-Aligned Movement's Summit, publicly opposed the inclusion of Tibet on the agenda. She did so on the grounds that it would constitute interference in China's internal affairs. Her response followed well-publicized efforts by Tibetan groups in India to secure a place for Tibetans at the conference.<sup>242</sup>

Nevertheless, Tibetans abroad have become a group with which to reckon. When General Secretary Hu Yaobang visited Britain in 1986, he had to face Tibetan demonstrators in the streets and had to answer questions about Tibet at a meeting he addressed at the Royal Institute of International Affairs.<sup>243</sup> Clearly the "Tibetan lobby" intends to keep international attention focused on the plight of their people as long as the persecution continues. Their activities demonstrate the value of having an organized group pressing for better conditions in the PRC.

### Relevance of International Human Rights to China

The argument that Western human rights standards are irrelevant to China and therefore should not be raised in discussions with the Chinese was dealt a serious blow by the democracy and free speech movement which spontaneously erupted in China in the late 1970s (1978 to 1980). The movement demonstrated a strong desire for greater civil and political rights in China and the belief that the exercise of these rights would contribute to the economic development of the country. It initially attracted popular support well beyond its numbers and also enjoyed endorsement in official circles.

The movement actually began on 5 April 1976 with spontaneous demands for freedom in Tienanmen Square where thousands had gathered to mourn Zhou Enlai's death, and ended with protests against the rule of the Gang of Four. By 1978, tens of thousands of Chinese citizens were participating in rallies and demonstrations in major cities calling for greater political

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241. See Statements of June Teufel Dreyer and James D. Seymour, Freedom House Conference, note 57 above, 259, 263, 265.

242. "Tibet," *Human Rights Internet Reporter* 8 (April-June 1983): 514.

243. Hella Pick, "China Reforms 'Here to Stay,'" *Guardian*, 12 June 1985.

and economic freedoms.<sup>244</sup> The demonstrators included a broad range of people – factory workers, peasants, students, and teachers. None was well known. Some were former Red Guards; others were the sons and daughters of officials or intellectuals persecuted during the Cultural Revolution. They carried banners, marched, or gathered at Xidan and other “democracy walls” to read posters or essays advocating free speech, more democratic government, and the restoration of the rule of law.<sup>245</sup> Scores of unofficial journals sprang up, such as *April Fifth Forum*, *Exploration*, and *The Road of the People*, and several human rights organizations came into being. A young worker, Ren Wandong, founded the China Human Rights Alliance; its Manifesto called for the release of political prisoners, freedom of expression and information, more open government, the dismantling of the secret police, freedom of movement, and basic economic rights. The Manifesto asserted:

The nation demands that effective guarantees be written into the Constitution whereby we have the right to criticize and judge the leaders of the Party and the State. . . . The citizens demand freedom of thought and speech. We call for the release of those who have been imprisoned all over the country because of the opinions they hold.<sup>246</sup>

A young woman, Fu Yueha, founded a group to help peasants present grievances to the authorities and organized and led them in demonstrations in Beijing.<sup>247</sup>

Most democracy advocates sought reform within the prevailing political-economic structure. However, whether the participants of the movement were communists, Marxists, or supporters of a more Western-style democracy (a distinct minority), they all generally seemed to share cer-

244. See Butterfield, *China: Alive*, note 4 above, 552–553; “Marchers in Peking Demand Democracy,” *New York Times*, 9 January 1979; Xinhua News Agency, 8 September 1979, reporting 6,000 petitioners in Peking; Nigel Wade, “Peking Protestors Call for Real Human Rights,” *Daily Telegraph*, 14 September 1979, 4, col. 4; “La Campagne pour les Droits de l’Homme,” *Le Monde*, 16 January 1979; V. Graham, “Arrests at Peking Protest Meeting,” *Guardian*, 14 September 1979; Fox Butterfield, “2000 Students in Peking Protest,” *New York Times*, 11 November 1979; “Freer Expression Typifies a New Dynamism,” *New York Times*, 14 January 1979; Nigel Wade, “Ragged Peasants Wait,” *Daily Telegraph*, 16 March 1979, 5, col. 1; Nigel Wade, “Young Urban Chinese Protest,” *Daily Telegraph*, 9 February 1979; “Ragged Provincials in Peking,” *New York Times*, 9 August 1979.

245. See Peter Harris, “The Democracy Movement,” *Index on Censorship* 10 (April 1981): 64–69; Fox Butterfield, “Critical Wall Posters on View in Shanghai,” *New York Times*, 16 April 1979, sec. A, 1, col. 4; “Call for Freedom of Speech,” *The Japan Times*, 4 May 1979; “Chinese Call for Freedom,” *Guardian*, 3 May 1979; “Peking Poster on Prison,” *Daily Telegraph*, 22 August 1979, 32, col. 6; “Excerpts from the Wall Poster,” *New York Times*, 7 May 1979, 1, col. 2.

246. See “Manifesto of the Alliance for Human Rights in China,” *Index on Censorship* 8 (September–October 1979): 3–6.

247. *China: Violations*, note 26 above, 21–23; Arlette Laduguie, “The Human Rights Movement,” *Index on Censorship* 9 (February 1980): 19–21.

tain objectives—a reduction in the power of the police and political cadres; the institution of legal safeguards to protect individuals against arbitrary arrest; an end to torture and ill-treatment of prisoners; and greater political freedoms, in particular freedom of speech, association and movement.<sup>248</sup>

The famous Li-Yi-Zhe wall poster, written by radical Marxists as early as 1974, called for elections, democratic oversight of government, reinstatement of the rule of law, and greater political freedoms. Entitled “Socialist Democracy and the Legal System,” the essay, widely circulated in China, denounced the betrayal of the revolution by the Gang of Four and its dictatorial rule:

All across the land, there were arrests everywhere, suppression everywhere, miscarriages of justice everywhere . . . in Guangdong province alone nearly 40,000 revolutionary masses and cadres were massacred and more than a million revolutionary cadres and masses were imprisoned, put under control and struggled against. . . . In the summer of 1968, the socialist legal system ‘suddenly became inoperative,’ while, on the other hand, ‘the state power is the power to suppress’ became operative.<sup>249</sup>

In a not dissimilar vein, Wei Jingsheng, the theorist closest to Western liberal thought, denounced dictatorship in China in an article entitled “Democracy or a New Dictatorship.” Wei faulted not just the Gang of Four but Mao Zedong, Deng Xiaoping, and the communist system. He called for governmental accountability, legal safeguards, and freedom of expression:

[I]f they [the Chinese people] are content with a continuation of the Mao Zedong brand of proletarian dictatorship then they cannot even talk of democracy, nor will they be able to realise the modernization of their lives and resources. . . .

We cannot help asking Mr. Deng what his idea of democracy is. If the people have no right to express freely their opinions or to enjoy freedom of speech and criticism, then how can one talk of democracy? If his idea of democracy is a democracy which does not allow others to criticise those in power, then how is such a democracy in the end any different from Mao Zedong’s tyranny. . . .

We would like to ask the high officials who instigate the arrest of individuals— is the power you exercise legal or not? . . . Only a genuine general election can create a government and leaders ready to serve the interests of the electorate. . . . Only when the people enjoy complete freedom of expression can they help their leaders to analyse and solve problems.<sup>250</sup>

248. Corinna-Barbara Francis, “Springless Soup,” *Speahrhead* 17 (Northern Spring 1983): 9–11; Mab Huang, “Democratization,” *Speahrhead* 19 (Fall 1983): cols. 19–26; Goldman, “Human Rights in PRC,” note 4 above.

249. The three authors of the wall poster were Li Zhengtian, Chen Yiyang, and Wang Xizhe. See *Political Imprisonment*, note 11 above, 21, 163; Shirk, note 33 above, 113–119. Struggle sessions referred to in the poster are meetings where a prisoner is surrounded by other prisoners and police and are subjected to physical and verbal abuse in an effort to force a confession. The session can go on for hours or days.

250. See *China: Violations*, note 26 above, Appendix A, 107–110.

Concerned with the economic development of their country, members of the Democracy Movement often advocated political reform as a means of economic modernization. They argued that without the ability to hold leaders to account and to protest unpopular government actions, and without the freedom to pursue research and science, development would not take place. Wei Jingsheng's "The Fifth Modernization," published in *Exploration*, considered democratic reforms a precondition for achievement of the government's four other modernizations—agriculture, industry, science, and defense. Wei called democracy the necessary "fifth modernization."<sup>251</sup> A wall poster on Hsitan Democracy Wall in 1978, signed anonymously by "a railroad worker," echoed this view. It said that economic and scientific modernization could not be achieved without "political modernizations." The unofficial journal *April Fifth Forum* also affirmed:

People often look for outside explanations for Japan's revival and our backwardness, but internal reasons are always the most important. . . . History tells us that without democracy there can be no science. . . . As a prerequisite to the Four Modernizations, ideological modernization and political modernization are imperative.<sup>252</sup>

The democratic movement, although hardly a mass movement, did enjoy some popular support in the cities. Estimated to have had from several hundred to several thousand active participants,<sup>253</sup> the movement expressed the hopes and aspirations of a far larger segment of the population. In local elections, allowed for the first time in several cities, candidates who ran on a democracy and free speech platform won large percentages of the vote. The student Hu Ping won 57 percent of the vote in Haidian District, Beijing, in what has been called one of the few free elections allowed in China. The Communist Party subsequently obliged him to withdraw his candidacy. Another candidate in a local election in Beijing who defended Wei Jingsheng won 70 percent of the vote, although he too was forced to withdraw. The factory worker Fu Shenqi won 43 percent of the vote on a democratic platform in a local election in Shanghai despite a vigorous campaign against him.<sup>254</sup> Democracy Movement advocates clearly expressed what larger numbers inwardly felt—disillusionment with past Party policies, the desire for both political and economic reform, and the redress of past in-

251. Wei Jingsheng, "The Fifth Modernization: Democracy," *Index on Censorship* 8 (September-October 1979): 9-11.

252. See *April Fifth Forum*, as quoted by Seymour, 1980 Hearings, note 1 above, 132.

253. See Goldman, "Human Rights in PRC," note 4 above, 111-137.

254. For reports about these and other free speech candidates, see Mab Huang, note 248 above, cols. 23-25; *China: Violations*, note 26 above, 34-35; B. Johnson, "Chinese Leader Said to Urge Crackdown," *International Herald Tribune*, 19 January 1981; Butterfield, *China: Alive*, note 4 above, 565-566; "Non-Communists Run Strongly in Peking Election," *International Herald Tribune*, 22 November 1979 (for report that 38 percent of 348 seats in Beijing's east city district election were won by non-communists).

justices. *Renmin Ribao* (the *Peoples Daily*) reported in 1978 that large numbers of letters were pouring in from citizens all over the country complaining about police abuse of power and the violation of laws by political cadres.<sup>255</sup> In 1981 the Party's Disciplinary Commission admitted to receiving more than 490,000 letters and visits from people seeking redress. By 1983 the total number of letters received exceeded seven million. Moreover, statistics from seventeen of China's twenty-nine provincial units reported that "3.85 million cases of persecution from the Cultural Revolution in the early 1970s had been heard by party, government and court organs."<sup>256</sup>

The demonstrations held in many cities were pointed to by Democracy Movement members as evidence of the popular support they enjoyed. Wei Jingsheng asserted that the "mood of the majority of the people," not "a few isolated individuals" brought about the present democratic movement.<sup>257</sup> But such claims did not take into account the bulk of China's population, the 800 million peasants who lived and worked in the countryside far from the activists in the cities. Even in the cities, the movement was comparatively small. Nevertheless, the nationwide potential of the movement did become visible, particularly when some of its members began to develop connections with peasants in the rural areas. The arrest of Fu Yuehua for helping peasants bring their grievances to the capital demonstrated how the Party feared a possible linkage between democratic activists and a peasant movement.<sup>258</sup> A Communist Party Central Committee member warned that "the strength of these people should not be underestimated. . . . Their number is small but . . . they have organizations . . . in mutual liaison all over the country."<sup>259</sup> The Democracy Movement also had an exceptionally large audience because the British Broadcasting Company, the Voice of America, and Radio Australia broadcasted their views to millions of Chinese who tuned in to hear them. In fact, one of the reasons for the movement's subsequent suppression was that the authorities feared it would become too influential and might even disrupt Communist Party rule.

Well known intellectuals did not join the movement. Some abstained because they were afraid to join or simply because they knew better. They remembered that two decades earlier, during the Hundred Flowers Movement (1957), when intellectuals had been encouraged to speak out, they later had been arrested when the conservatives reasserted control. Other in-

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255. See Statement of Amnesty International, 1980 Hearings, note 1 above, 168-169.

256. M. Parks, "Chinese Party Leaders Chastise Intellectuals for Criticism," *International Herald Tribune*, 2 September 1981; Fox Butterfield, "China Appoints 1000 to Resolve Complaint Cases," *New York Times*, 16 September 1979, 1, col. 2; Heng and Shapiro, *Intellectual Freedom*, note 18 above, 67, 178-179.

257. See *China: Violations*, note 26 above, 107.

258. See "The Little Touch of Gulag," *Economist*, 10 October 1979, 63; Goldman, "Human Rights in PRC," note 4 above, 123-124.

259. "A Dissenter's Odyssey," note 181 above.

tellelectuals considered it more effective to work within the system for reform.<sup>260</sup> But good numbers of middle-ranking Party and government leaders, as well as intellectuals and professionals, sympathized with and supported the movement's demands for greater democracy and human rights. At the Fourth Congress of Writers and Artists held in 1979, officials as well as writers and artists called for greater literary and artistic freedom. The writer Bai Hua openly declared:

Just what sort of socialist nation is this where communist party members don't dare speak the truth at party meetings; where fathers and sons, brothers, sisters, and friends cannot confide in one another; where writers dare not jot down thoughts in notebooks and citizens dare not keep diaries.<sup>261</sup>

The official Communist Party daily, *Renmin Ribao*, affirmed support for freedom of speech in an editorial in 1979: "Let the people say what they wish. The heavens will not fall. A range of opinions from people are good for a revolutionary party leading the Government. . . . If a person is to be punished for saying wrong things, no one will say what he thinks." The editorial concluded that the country's economic modernization "depends" on reforms which can unleash "the talent, initiative and enthusiasm of the entire population."<sup>262</sup> *Renmin Ribao* also took issue with the opponents of the free speech movement, describing their opposition as "the foolish tendency of some comrades who want to call in the public security department whenever someone puts up a wallposter criticizing leading comrades."<sup>263</sup> Several Party officials openly expressed sympathy for Democracy Movement objectives. One high-ranking member was reported to have placed his signature on a wall poster urging better treatment for political prisoners.<sup>264</sup> Deng Xiaoping affirmed in 1978 that "wall posters and the frank airing of opinions are necessary to . . . inspire [the people] to accomplish the four modernizations."<sup>265</sup> *Guangming*, an official intellectual journal, warned against the suppression of the movement, "Violence can suppress a certain line of thought or force people to surrender or even destroy them completely, but it will

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260. See W. J. F. Jenner, "The Hundred Flowers," *Index on Censorship* 9 (February 1980): 7-12; London and Lee, note 87 above, 9; see Heng and Shapiro, note 162 above, 15-16; C. S. Wren, "The Long March Back for China's Educated," *International Herald Tribune*, 4 March 1984; G. Earnshaw, "Fresh Deal for Chinese Intellectuals," *Daily Telegraph*, 4 December 1982, 6, col. 8; James Sterba, "China Luring Party Dissidents Back to Fold," *International Herald Tribune*, 14-15 March 1981.

261. Heng and Shapiro, *Intellectual Freedom*, note 18 above, 97-99.

262. Fox Butterfield, "China Backs Posters as Citizens' Forum," *New York Times*, 4 January 1979, quoting the *Renmin Ribao* edition of 3 January 1979.

263. Nigel Wade, "Free Speech Encouraged in China," *Daily Telegraph*, 27 February 1979.

264. "Peking Poster," note 245 above.

265. See June Teufel Dreyer, "Limits of the Permissible in China," *Problems of Communism* (November-December 1980) as reproduced in 1980 Hearings, note 1 above, 109. For Deng's other statements of support for freedom of speech, see Fox Butterfield, "Deng Under Attack," *New York Times*, 25 May 1979, 1, col. 4; Nigel Wade, "Teng Pledges to Retain Free Speech in China," *Daily Telegraph*, 10 January 1979, 4, col. 4.

never succeed in changing the way people think.”<sup>266</sup> Official journals also echoed the views of unofficial journals on the disastrous agricultural policies pursued by Mao Zedong and the Gang of Four. Party journals readily conceded that the collectivization experiment at Dazhai in northern China had been a failure after the unofficial journal *Exploration* pointed this out.<sup>267</sup>

It was, therefore, not surprising that when the Party's Central Committee decided in 1981 to clamp down on the democratic movement and ban unofficial journals and organizations, it took to task those within its ranks who had assisted the publication and circulation of “illegal materials.”<sup>268</sup> In particular, the professional print jobs of “secret publications” were emphasized to point out that Party cadres must have participated in their production. When it became clear that the Party in the future would be the sole means of effecting change in China, a number of members of the Democracy Movement who had not been sent to prison joined its ranks.<sup>269</sup>

The influence of the Democracy Movement on the Party continued even after its harsh suppression. While the movement's spokesmen were arrested, and some were beaten, placed in solitary confinement, and forced to do hard labor, their ideas continued to be echoed by Party members, although in more muted form, and some of their proposals were adopted as official policy. One delegate to the National People's Congress (NPC), for example, warned against making “counterrevolutionary activities” criminal, arguing that this would lead to the creation of a new class of political prisoners in China. Another NPC delegate argued for the retention of the right to put up big-character posters, although he was unsuccessful.<sup>270</sup> Still another Party reformer, Hu Qili, told a national writers conference that the writer must “have full freedom” to choose his own subjects and called for an end to the Party's overbearing interference in literature and art.<sup>271</sup> Deng Xiaoping himself acknowledged that some Party members had raised the question of a two party system in China, although the idea had been dismissed.<sup>272</sup> Certainly, the discussion of civil and political freedoms became more circumscribed after the suppression of the Democracy Movement, but these rights nonetheless continued to be debated almost daily in the official press and in Party and government circles.

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266. Nigel Wade, “Chinese Paper Backs Jailed Dissidents View,” *Daily Telegraph*, 26 October 1979.

267. See Statement of James D. Seymour, 1980 Hearings, note 1 above, 131–132.

268. See *Index on Censorship Briefing Paper* (9 June 1981); June Teufel Dreyer, note 265 above, 113.

269. See Heng and Shapiro, “How Much Freedom,” note 162 above, 15–16; C. S. Wren, “The Long March,” note 260 above; Earnshaw, note 260 above; Sterba, note 260 above.

270. See Statement of Amnesty International, note 255 above, 169; Edwards, Henkin, and Nathan, note 3 above, 49.

271. Liang Heng and Judith Shapiro, “Buds of Freedom,” *The New Republic*, 7 October 1985, 19.

272. Harris, note 245 above, 67.

Notable reforms ensued from the debate.<sup>273</sup> Among these reforms were the new leadership's decisions to allow tens of thousands of its citizens to travel, to permit limited religious activity, to liberalize restrictions on the economy, to release and rehabilitate large numbers of political prisoners (although others—particularly democracy advocates—were arrested and tried), to bring reformers into the Party, and to allow greater local participations in government (although within prescribed Party limits). These reforms owed some of their impetus to the Democracy Movement. Politburo member Peng Zhen, in drafting the new Criminal Code and Law of Criminal Procedure in 1979, promised that extraction of confessions through torture would be forbidden. So too, he said, would be imprisonment without authorization and the gathering of crowds to judge a person through "beating, smashing and looting."<sup>274</sup> *Renmin Ribao* elaborated on these points. It said that a section on "personal rights" had been included in the new 1982 Constitution as a result of "the bitter lessons of the 10 years of internal disorder during which socialist democracy and the legal system were seriously damaged." The section sought to ensure:

[T]hat the personal dignity of citizens is inviolable; insulting, slandering, falsely charging or framing citizens through any means is outlawed; citizens have the right to demand compensation, according to law, for losses due to violation of their rights by any state organ or functionary. . . .<sup>275</sup>

As it turned out, the new legal codes did not protect democracy advocates from arrest or imprisonment, even though they did restrain police behavior and provide trials and lawyers in certain cases. Nevertheless, the discussions leading to their drafting and adoption showed a greater understanding of civil and political rights in China than was thought to have existed. The Democracy Movement was quashed not because civil and political liberties were deemed irrelevant to China's problems, but because the ruling party felt threatened by the persistent attacks on the political

273. See Lawrence Sullivan, Freedom House Conference, note 57 above, 165–202; A. Doak Barnett, "Ten Years After Mao," *Foreign Affairs* (Fall 1986): 37–65; Edwards, Henkin, and Nathan, note 3 above, 51, 59–60, 115–120; J. Hoffman, "Democracy Lessons for Chinese," *Financial Times*, 23 May 1979; Goldman, "Human Rights in PRC," note 4 above, 126–134; Statement of Andrew Nathan, 1982 Hearings, note 57 above, 330; Nigel Wade, "Chinese Question Teng's Tough Line on Dissidents," *Daily Telegraph*, 24 March 1980, 6, col. 3; Michael Weisskopf, "Chinese Party Concedes Public Doubts About Marxism," *International Herald Tribune*, 21–22 March 1981; M. Parks, "Chinese Officials Split on Artistic Freedom," *International Herald Tribune*, 24 April 1981.

274. See Peng Zhen, "Explanation on Seven Laws," *Beijing Review* 22 (13 July 1979): 11.

275. Gastil and Seymour, Freedom House Conference, note 57 above, 127, quoting "The New Constitution Has Developed Socialist Democracy," *Renmin Ribao*, 20 December 1982; Chapter 2 of the 1982 Constitution is entitled "Fundamental Rights and Duties of Citizens." Rights are the subject of ninety-seven articles in the Constitution and some are included in other articles as well. See Edwards, Henkin, and Nathan, note 3 above, 24.

system that these rights seemed to engender.<sup>276</sup> Whereas the official press in 1978 and 1979 had encouraged criticism, it had strongly opposed any questioning of the supremacy of the Communist Party or of any loosening of the Party's control over economic or political life.<sup>277</sup> The Party clearly feared that continued exposure of its shortcomings would undermine its leadership. Deng Xiaoping, while admitting that "both party leadership and the socialist system should be improved," warned that "bourgeois liberalism and anarchy are impermissible."<sup>278</sup> The movement's excessive criticism of Party policies, and in the case of Wei Jingsheng, of the Party's very existence, went beyond accepted limits and resulted in the crackdown. Both orthodox communists with vested interests in the system and reformers whose power came from the Party would not tolerate any weakening of the political base upon which they depended. But the government went on to defend the reforms it did allow by emphasizing the value of civil and political freedoms to China. While its main emphasis remained economic and social needs, China's new leaders nevertheless gave expression to the importance of civil and political rights in some of the new policies and laws they adopted.

When political reform was not sufficiently forthcoming, a movement for democracy erupted again in late 1986. Tens of thousands of students took to the streets in thirteen Chinese cities to demand greater political freedoms, in particular freedom of the press and democratic elections. Once again, the relevance of civil and political rights to China became evident. Students demanded the right to select their own candidates to local people's congresses. Some called for a multi-party system.<sup>279</sup>

To be sure, only 3 percent of China's two million students demonstrated, but they had strong supporters among faculty and university administrators and in the Party. Indeed, Party and academic journals for many months prior to the demonstrations had called for greater political reform. China's leaders had urged that greater debate of political reforms take place as a means of accelerating economic development, and leading Party officials and intellectuals had come forward to urge greater freedom of expres-

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276. For two excellent discussions of the reason for the suppression of the movement, see Goldman, "Human Rights in PRC," note 4 above and Dreyer, note 265 above. See also, Nigel Wade, "Teng Defends Jail Term for Dissident Wei," *Daily Telegraph*, 27 November 1979; "Chinese to Withdraw Guarantee of Wall Poster Right in Charter," *New York Times*, 18 January 1980, 1, col. 2.

277. See Xinhua, "Criticism Must Be Welcomed, Says 'People's Daily,'" 12 May 1979 and "People's Daily Editorial," 5 April 1979; *China: Violations*, note 26 above, 8-9.

278. M. Parks, "Chinese Party Leaders Chastise Intellectuals for Criticism," *International Herald Tribune*, 2 September 1981.

279. Daniel Southerland, "China Meets Student Protests with New Tack: Compromise," *International Herald Tribune*, 20-21 December 1986; Daniel Southerland, "Chinese Protests: More a Feeling Than a Movement," *International Herald Tribune*, 26 December 1986; Edward Gargan, "Thousands Stage Rally in Shanghai Demanding Rights," *New York Times*, 21 December 1986, 1, col. 6; "Students in Beijing Putting Up Posters Urging Democracy," *New York Times*, 14 December 1986, 13, col. 1.

sion, greater legal safeguards for human rights, and lesser Party control over the economy and intellectual life. The *Beijing Review* published the views of Fang Lizhi, vice president of the prestigious University of Science and Technology in Hefei, who called for greater intellectual freedom in academic and scientific circles and greater democracy and openness in daily life. Chinese students called Fang the Chinese Sakharov. He objected to "Marxist philosophy" as "the sole theoretical guidance" and said that there should be no one doctrine at the University "that can only be upheld and that allows no questioning of why it must be upheld."<sup>280</sup> He called upon Chinese citizens to "explore and make use of their rights," to "criticize leaders," and to "express views." He said that direct participation in political affairs was the only means to bring about democracy in China. A true democratic system could not be "granted only from the top . . . democracy itself embodies the recognition of individual rights. The society is composed of individuals. This means this right is not granted from above. Rather, men are born with rights."<sup>281</sup>

Fang Lizhi was dismissed from his post at the University and expelled from the Communist Party, accused of supporting "total Westernization," of questioning Party supremacy, and of stirring up students. Other leading intellectuals were expelled from the Party as well, including the president and vice president of the Academy of Sciences and writers Liu Binyan and Wang Ruowang. Liu in his writings had denounced Party campaigns, irrational economic decisions, and corruption, while praising the role of dissenters and critics.<sup>282</sup> But the most dramatic retaliatory move was against the General Secretary of the Communist Party, Hu Yaobang, who was forced to resign. Hu was criticized for allowing the student demonstrations to get out of hand, for tolerating the publication of politically dissenting views, and for seeking to reduce Communist Party influence over economic and intellectual life.<sup>283</sup> Hu was nevertheless allowed to remain in the Politburo's influential Standing Committee. Once again, conservatives within the system came to the

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280. "'Scientific Morality' Meets Political Reality" (An interview with Fang Lizhi), *New York Times*, 25 January 1987, sec. E, 2; see also Merle Goldman and Rudolf Wagner, "China: Intellectuals at Bay," *The New York Review of Books*, 26 March 1987, 17-20.

281. Fang Lizhi, "Now No One Can Intimidate Anyone Else," *International Herald Tribune*, 20 January 1987; "In China, As Elsewhere, People are Born With Rights," *International Herald Tribune*, 21 January 1987.

282. Daniel Southerland, "Two Educators in China Dismissed," *International Herald Tribune*, 13 January 1987; Edward Gargan, "China in its Drive on Repression Ousts Chiefs at Science Academy," *New York Times*, 23 January 1987, 4, col. 3; Edward Gargan, "China Party Ousts a Top Journalist," *New York Times*, 25 January 1987, 10, col. 3; Daniel Southerland, "Deep Rift Between Deng, Hu Reported," *International Herald Tribune*, 20 January 1987; Goldman and Wagner, note 280 above.

283. Daniel Southerland, "China Party Document Links Hu Downfall to 6 Major Errors," *International Herald Tribune*, 28 February 1987-1 March 1987; Edward Gargan, "Leader of Party in China is Ousted for His 'Mistakes,'" *New York Times*, 17 January 1987, 1, col. 6; Fox Butterfield, "Hu's Ouster: Deng's Role?" *New York Times*, 17 January 1987, 1, col. 6.

fore to ensure that there was no serious weakening of Party leadership. A new Media and Publications Office was established to curtail political debate and ensure that "bourgeois liberalism" was excised from all published material. Students were prohibited from further demonstrations, and a number of Party officials and economists who had supported Hu and espoused political and democratic reform lost their posts. Scores of publications were forced to close and one journalist in Sichuan province was sentenced to seven years imprisonment for "counter-revolutionary" activities after publicly calling for democracy and freedom.<sup>284</sup> At the same time, some effort was made to appease those who had demonstrated. In Hefei, for the first time students were allowed to nominate their own candidates to the provincial legislature, and in Beijing, the city government announced that there would be more than one candidate for each seat in local legislative elections "to promote democracy."<sup>285</sup>

Some China hands admitted for the first time that they might have been mistaken in insisting earlier that democratic freedoms were irrelevant to China. In the words of one: "Conventional wisdom among China's scholars, myself included, has long held that traditional values have precluded any real rooting of democratic principles in contemporary China. Today's demonstrations invalidate that view. Whatever the fate of the young participants, they are speaking a universal language."<sup>286</sup> Many historians and experts on China, in fact, have begun to acknowledge the existence in Chinese history of precedents for dissent, individual rights, and a system of justice. One recent study concluded that "there is nothing in Chinese tradition barring greater respect for the physical-psychological integrity of the person, safeguards against politicization of the criminal process, some enlargement of the sphere of individual autonomy, and perhaps even some freedom of political expression."<sup>287</sup> The view that human rights are a foreign notion in Chinese history is being increasingly countered.<sup>288</sup> In traditional China, one expert found, there was "a regard for humanity as profound as that of any

284. Edward Gargan, "Supporters of Old-Style Soviet Methods Gain Ground in China," *International Herald Tribune*, 14-15 February 1987; Daniel Southerland, "China Said to Urge Moderation," *International Herald Tribune*, 7-8 March 1987; "China Jails Advocate of Democracy," *International Herald Tribune*, 6 February 1987; "China is Warning that Free Debate Will Be Curtailed," *New York Times*, 19 January 1987, 1, col. 1; *Index on Censorship* 16 (June 1987): 36.

285. "Chinese Students Get Role in Election System," *International Herald Tribune*, 15 December 1986; Edward Gargan, "Beijing to Offer Voters a Choice in City Election," *New York Times*, 28 December 1986, 1, col. 5.

286. Allen Whiting, "Why China's Students Are Demonstrating," *New York Times*, 29 December 1986, 21, col. 1.

287. Edwards, Henkin, and Nathan, note 3 above, 38.

288. See Leys, note 74 above; Edwards, Henkin, and Nathan, *ibid.*, 78, 125-164; Copper, Michael, and Wu, note 32 above, 9-22; Statement of John Copper, 1985 Hearings, note 25 above, 243-245; Goldman, "Human Rights in PRC," note 4 above, 111; Goldman, *China's Intellectuals*, note 44 above; Butterfield, *China: Alive*, note 4 above, 553; Shirk, note 33 above, 111.

other great culture.”<sup>289</sup> Although the Chinese subordinated the individual to the group and did not develop a tradition of individual liberties and legal rights as known in the West, Confucianism was not incompatible with modern notions of human rights. In fact, certain aspects of Confucianism supported liberal government and the practice of dissent. The “Confucian literati” were expected to criticize their government for unfair treatment of the population and abuse of power. Although they were not allowed to challenge the system, “individuals and groups throughout China . . . criticized political oppression and sought to curb despotic political rulers” and to propose reforms.<sup>290</sup>

Historians further have found that human rights have played an important role in modern Chinese philosophic thinking and in the human rights movement of the early 20th century.<sup>291</sup> One study of Chinese constitutions and political theory documented “the consistent desire of twentieth-century Chinese for a democratic political order,” and concluded that, “it is no longer possible to accept the myth that the Chinese have no desire for individual rights.”<sup>292</sup> Today, the rights question has become a central issue in China. Government programs designed to introduce greater political participation and to codify law, however restrictive, increasingly have had to deal with ideas of freedom, justice, due process, and democratic participation. As has been seen, many of China’s citizens, following the Cultural Revolution, sought protection against arbitrary search and seizure, a voice in the selection of local leaders, the right to appeal a court decision, greater freedom of expression, greater freedom of residence, and the right to practice religion. It clearly has become less tenable to argue that China’s past is “different” and therefore international expectations about its human rights record should be lower.

Within China, advocates of greater democracy have begun to challenge another assumption, namely that foreign expressions of concern could harm China’s dissidents and damage China’s national honor. Beginning in the late 1970s, Democracy Movement leaders as well as other aggrieved Chinese began to bring their demands for greater individual rights to international attention in order to pressure their own government to observe civil and political rights. In their view, foreigners could help. The Manifesto of the Human Rights Alliance thus appealed for support “from human rights organisations throughout the world.”<sup>293</sup> The unofficial journal *Exploration* called upon “every government, every organization, and every man or woman loving democracy and freedom” to press China to release arrested democracy ad-

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289. See Copper, Michael, and Wu, note 32 above, 9.

290. See Goldman, “Human Rights in PRC,” note 4 above, 111.

291. See Leys, note 74 above.

292. See Edwards, Henkin, and Nathan, note 3 above, 160-161.

293. See “Manifesto,” note 246 above.

vocates: "We appeal to you to give pressure . . . to the Chinese Government for releasing these arrested people."<sup>294</sup> Another unofficial journal, *Enlightenment*, published a letter to President Carter specifically calling upon the United States to help promote human rights in China.<sup>295</sup> Groups of Chinese at Hsitan Democracy Wall told visiting U.S. officials that they welcomed the United States new emphasis on human rights and expressed the hope that democratic elections would be held in China.<sup>296</sup> Moreover, former victims of the Cultural Revolution as well as demonstrators from rural areas gave their stories to Western newspapers to pressure their government to institute reforms.<sup>297</sup> As arrested dissident Liu Qing explained, "if the news happens to cross the ocean . . . it will be given favorable attention by the leaders."<sup>298</sup> And in 1986 when the Chinese press refused to report student demonstrations and then denounced the demonstrators, student representatives gave their stories to the foreign press in the hope that international pressure would have some impact on their government.<sup>299</sup>

### Governmental Initiatives Become More Possible

The U.S. government's reluctance to promote human rights in China notwithstanding the appeals of the Chinese, has begun to be questioned in the United States by NGOs, members of Congress, journalists, and China specialists across the political spectrum.

There was little or no external pressure on the Carter administration to undertake human rights initiatives on China but growing numbers of academics today have begun to urge the U.S. government, now that relations with China have strengthened, to exert some pressure on the People's Republic in the human rights sphere. In congressional hearings, they have pointed out that "the magnitude and permanence of Sino-American differences is no reason for American citizens or our government to mute our expression of its [human rights] concerns . . . the cultural relationship will ultimately be healthier if differences are not suppressed."<sup>300</sup> Academics have also urged that the U.S. government "raise directly and privately with Beijing human rights issues that the United States finds particularly egregious," par-

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294. Nigel Wade, "Peking Dissident Paper Appeals for Foreign Support," *Daily Telegraph*, 21 May 1979.

295. See "Chronology of Events," note 150 above, col. 13.

296. Report from U.S. Embassy, Beijing, December 1978.

297. See H.L. Schonberg, "Shanghai Youths Use Boston Symphony for Protest," *New York Times*, 16 March 1979; see also, note 244 above.

298. See Goldman, "Human Rights in PRC," note 4 above, 136.

299. Edward Gargan, "China Denounces Student Protests as 'Illegal Acts,'" *New York Times*, 22 December 1986, 1, col. 6.

300. Statement of Andrew Nathan, 1982 Hearings, note 57 above, 331; Goldman, "China's Intellectuals," note 44 above, 12-14.

ticularly the harsh punishment meted out to dissidents and the persecution of religious leaders.<sup>301</sup> Articles have appeared calling for an end to the double standard, "one for the Russians, who are Europeans, and another for the Chinese, who are Asians," and urging that the same attention be paid to the human rights situation in China as is paid to the Soviet Union.<sup>302</sup>

NGOs have also begun to take note of the exclusion of China from governmental human rights initiatives. The president of the International League for Human Rights drew attention in 1983 to China's exemption from the Reagan administration's human rights policy because of its friendship with the United States.<sup>303</sup> A report published in 1985 by Americas Watch, Helsinki Watch, and the Lawyers Committee for Human Rights similarly criticized the special treatment accorded by the Reagan administration to communist governments such as the PRC. The report objected to U.S. support of development loans for China, irrespective of human rights considerations, and the failure of the administration to invite a Chinese "victim" to the White House to commemorate Human Rights Day.<sup>304</sup> An evaluation of U.S. human rights policy in 1984 by the American Association of the International Commission of Jurists also singled out the United States uncritical embrace of China.<sup>305</sup> Amnesty International USA on several occasions has called upon the U.S. government to convey its human rights concerns to the PRC "through both public and private channels."<sup>306</sup>

Members of the U.S. Congress likewise have begun to take a second look at the problem of human rights in China. Congress in 1980 called hearings specifically to explore "what can be done to insure the observance of human rights" in China and other Asian countries.<sup>307</sup> Additional hearings were called in 1982 to ask, "How important a priority should the promotion of human rights in China be for American foreign policy?"<sup>308</sup> And in 1985 hearings were again held to ensure that "in our haste to accomplish strategic and economic objectives . . . human rights remains a fundamental component of U.S.-Chinese relations."<sup>309</sup> Members of Congress have also begun to

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301. Statement of Kenneth Lieberthal, 1982 Hearings, note 57 above, 335; Statement of Hung-dah Chiu, 1985 Hearings, note 25 above, 93-96.

302. Butterfield, *China: Alive*, note 4 above, 489-490; Leys, note 74 above.

303. Jerome Shestack, "The Rise and Decline of Human Rights in US Foreign Policy," *Columbia Human Rights Law Review* 15, (Fall 1983): 33-34.

304. *The Reagan Administration's Human Rights Record in 1984* (New York: Americas Watch, Helsinki Watch, Lawyers Committee for Human Rights, 1985): 8, 11, 15.

305. David Heaps, *Human Rights & U.S. Foreign Policy: The First Decade, 1973-1983* (New York: American Association for the International Commission of Jurists, 1984): 36.

306. See Statement of Andrew Nathan (representing Amnesty U.S.A.), 1985 Hearings, note 25 above, 84; J. D. Barber, Amnesty U.S.A. Chairman, Op Ed page, *New York Times*, 29 October 1984.

307. See 1980 Hearings, note 1 above, 1.

308. See 1982 Hearings, note 57 above, 318.

309. See 1985 Hearings, note 25 above, 1-2; Statements of Congressmen Stephen Solarz, Christopher Smith, and Gus Yatron in 1985 Hearings, *ibid.*, 92-96, 102, 104-105.

take up cases of Chinese human rights victims. The Congressional Friends of Human Rights Monitors raised the case of imprisoned dissident Liu Qing with the Chinese authorities in 1984.<sup>310</sup> A member of the Congressional Human Rights Caucus introduced a resolution in the U.S. Congress on the persecution of Chinese Christians.<sup>311</sup>

Members of Congress also began to criticize NGOs, journalists, and academics as well as the U.S. government for their apparent double standard in the treatment of human rights in the PRC and in other Asian countries:

[O]n Taiwan, the eight dissidents that were tried for a riot, they became eight international celebrities adopted by the liberal world. Yet dissidents on the mainland are always faceless, anonymous, and never championed by groups or never become symbolic causes. . . . Why is there this tolerant attitude toward the obvious defects of the PRC? Why is it that they seem to enjoy tolerance from academic as well as diplomatic and journalistic sources on their many defects?<sup>312</sup>

They pointed out that U.S. sensitivities to Chinese culture and traditions were not matched elsewhere:

[W]e are so much more careful and thoughtful and sensitive when we deal with the subject of human rights in China than we are with other countries in Asia who also have traditions and customs . . . when we deal with other countries in Asia, we seem to forget these differences – cultural differences and differences in background.<sup>313</sup>

While the objections voiced by China experts, NGOs, and members of Congress have not made any significant dent in U.S. policy toward the PRC, they have served to make government officials more attentive to human rights in China. In 1984, the State Department's Assistant Secretary for Human Rights, Elliott Abrams, was more forthcoming in his public pronouncements on China than previously. While still cautioning that the United States had to be "very careful about our rhetoric," and that the United States had to "remember that we have some common strategic interests with China, . . ." he did assert:

It's a mistake to say that because we have a form of strategic relationship with

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310. Letter from Congressional Friends of Human Rights Monitors to Prime Minister Zhao Ziyang, 11 July 1984. (The Congressional Friends is a group of ninety-six Congressmen and twenty-four Senators, founded by Asia Watch, Helsinki Watch, and Americas Watch to support the work of persecuted human rights monitors worldwide.)

311. Congressional Human Rights Caucus Newsletter, "Persecution of Chinese Christians," Washington, D.C., June 1984. (This organization includes several hundred members of Congress.)

312. Statement of Edward J. Derwinski, 1980 Hearings, note 1 above, 149.

313. See Statement of J. Pritchard, 1982 Hearings, note 57 above, 344; H. Hyde, *ibid.*, 456–457.

China, the human rights situation looks better. That's not true. We should not hide the fact that the human rights situation is very bad and offensive to us.<sup>314</sup>

Likewise, Abrams' successor, Richard Schifter, publicly characterized the Chinese government's crackdown on intellectuals and students in 1987 as "steps back."<sup>315</sup>

In Britain and France too, NGOs and academics have begun to prod their governments to take action on human rights in China. As a result of the urgings of Amnesty International in 1986, Prime Minister Thatcher spoke at least generally about human rights in her private discussions with the Chinese. In France a groundswell of intellectual opinion, supported by the media, made the government press vigorously for Chinese artist Li Shuang's release from detention.<sup>316</sup>

Apart from domestic pressures, newly acquired leverage should make it easier for Western governments to undertake human rights initiatives with China. Unlike in the 1960s or early 1970s when Western governments had little or no influence with China, ties with the PRC have since developed in the economic, military, scientific, cultural, and educational spheres. Western capital and technology today are playing a significant role in the economic modernization of China. The United States recently announced the largest sale of military equipment by a Western government to the PRC.<sup>317</sup> For the first time, U.S. human rights laws have become applicable to the PRC now that military equipment is being sold to China. Bilateral economic aid is no longer restricted, and loans are being extended by the multi-lateral development banks to support China's agriculture and industry. Although China's political and strategic importance makes military or economic aid reductions on human rights grounds unlikely, diplomatic discourse on human rights certainly has been made more effective.

A healthier realism also has entered Western relations with China, which has resulted in more forthright Western criticism of China on a variety of subjects. Vice President Bush on a visit to Beijing in 1985 declared, "Our two great independent countries do not agree on every issue and we shouldn't expect to."<sup>318</sup> Treasury Secretary James Baker while in Beijing

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314. "The Main Threat to Human Rights in the Soviet Union," *US News & World Report*, 10 September 1984, 38-39. See also Statement of James Lilley, 1985 Hearings, note 25 above, 108, 114 for more candid comments on the human rights situation in China.

315. See USIA Wireless File, ref. 404, 19 February 1987 for statement by Assistant Secretary Schifter.

316. Mirsky, "Thatcher Urged to Defend Rights," note 155 above; "M Cheysson Estime que les Relations entre Paris et Pekin sont Affectées," *Le Monde*, 12 November 1981.

317. For proposed \$500 million sale, see R. Halloran, "Congress Gets Proposal for Arms Sale to China," *International Herald Tribune*, 11 April 1986; "US Makes Record Arms Deal with China," *The Times*, 10 April 1986, 9, col. 8.

318. "Chinese Complain to Bush About Aid for Taiwan and Trade Protectionism," *International Herald Tribune*, 15 October 1985.

publicly criticized the "high cost of doing business in China."<sup>319</sup> These statements reflect a new willingness to take issue with China and a new confidence in the ability of the relationship to withstand conflict. Many disagreements, in fact, have been allowed to surface with China, for example over Taiwan, nuclear nonproliferation, investment, and trade.<sup>320</sup> Even in human rights-related questions, the United States has on occasion shown greater resolve. Secretary of State Shultz, while on a visit to the PRC in 1987, publicly and privately took issue with China's expulsion of two U.S. journalists.<sup>321</sup> Chinese governmental monitoring of the activities of its students in the United States also found the United States ready to issue a warning.<sup>322</sup> The United States Information Agency cancelled a cultural exchange agreement with the PRC when the Chinese sought to censor American art in the program.<sup>323</sup> By withdrawing U.S. funds from UN population activities in China, the Reagan administration sent a strong message to the Chinese about U.S. opposition to forced abortion and sterilization. A congressional resolution further condemned these Chinese practices as "crimes against humanity."<sup>324</sup> In all these instances, it becomes clear that while disagreement causes strains, no dire consequences to the overall relationship have resulted. Both sides regard their new ties as too important to be significantly affected.

Clearly the United States can afford to express its own values and principles in the area of human rights more vigorously than it has done so far. It certainly would enhance U.S. credibility in the human rights area if the United States expanded the focus of its concerns in Asia to include China as well as the Philippines, South Korea, and Taiwan. As Professor Andrew

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319. "Investors in China Urged to Hang On," *The Times*, 12 May 1986, 9, col. 8.

320. U.S. restrictions on textile imports from China have caused problems in U.S.-Chinese relations as have Western restrictions on technology transfers. The continued sale of arms to Taiwan has been an especially sore point. See "Chinese Complain to Bush," note 318 above; "Barriers Remain for US and China," *International Herald Tribune*, 9 December 1985. U.S.-Chinese disagreements in the area of nuclear nonproliferation have focused on reports that China has been exporting nuclear technology to Pakistan, Iran and other countries in violation of its nuclear cooperation agreement with the United States. See "China is Aiding Nuclear Programs," *International Herald Tribune*, 22 October 1985; J. Omang, "Senate Restricts China Pact," *International Herald Tribune*, 11 December 1985; "China Says Nuclear Link is With Pakistan, Not Iran," *International Herald Tribune*, 25 October 1985.

321. David Shipler, "Ties to West Solid, China Tells U.S.," *International Herald Tribune*, 3 March 1987. The Director of the U.S. Information Agency also has reminded the Chinese on several occasions that the United States would not tolerate unwarranted restrictions on American journalists. See Oziewicz, note 22 above.

322. See Mann, note 189 above. A U.S. law adopted in 1981 prohibits arms sales to governments which engage in the systematic harassment of persons within the United States.

323. See "U.S. Cancels Art Show Planned for China," *International Herald Tribune*, 17 July 1987; Butterfield, *China: Alive*, note 4 above, 593.

324. See 1985 Hearings, note 25 above, 5. The issue further caused several months delay in Senate confirmation of the U.S. Ambassador to China. See A.D. Romberg, "New Stirrings in Asia," *America & The World 1985*, Council on Foreign Relations, New York, 527.

Nathan pointed out in testimony before the U.S. Congress, the forceful promotion of human rights in China could serve both US and Chinese interests:

First, China criticizes our political system freely in its own party- and government-controlled press. There is no reason for us to be shy about commenting equally forcefully on their politics. . . . Second, despite differences in American and Chinese values, American democracy enjoys great prestige among the Chinese people. This good will can be lost if we do not speak in defense of Chinese who exercise legitimate freedom of speech and if we fail to criticize repressive acts by the Chinese government. Third, international attention often forces governments to be more respectful of individuals' rights sometimes merely to avoid embarrassment but sometimes because a closer look discloses that indigenous values have been contradicted by the way a case was handled. Fourth, I believe that increased international communication about rights issues helps educate both the leaders and the people of other countries about the benefits of freedom and the rule of law. Such a dialogue may be contentious and frustrating, but the history of American relations with countries in Asia and elsewhere shows that vigorous advocacy does produce results.<sup>325</sup>

### **China Begins to Respond to Human Rights Initiatives**

There are several reasons why the Chinese have become more approachable on human rights questions. To begin with, some of the new leaders who replaced Mao and the Gang of Four directly suffered human rights abuse themselves, and therefore have greater appreciation of the need for legal safeguards against the arbitrary use of power. Deng Xiaoping, leader of the PRC since 1978, was arrested and detained twice during the Cultural Revolution and was paraded before crowds in a dunce cap. One of his children was thrown out of a fourth floor window by a mob and today is a quadriplegic. Premier Zhao Ziyang was paraded through the streets by Red Guards and forced to confess his sins in a humiliating public ceremony with a dunce cap on his head. Former Party chief Hu Yaobang was forced to do manual labor for two and one-half years and was then placed under house arrest for five years, having been denounced as a "capitalist roader." Bo Yibo, vice chairman of a key Party committee charged with reform, was reportedly held in solitary confinement for eight years and two months during the Cultural Revolution.<sup>326</sup> While these and other officials remain fiercely

325. Statement of Andrew Nathan, 1982 Hearings, note 57 above, 327–328.

326. See *Human Rights Conditions in Selected Countries and the U.S. Response*, prepared for the Subcommittee on International Organizations, Committee on International Relations, House of Representatives, by the Foreign Affairs & National Defense Division, Congressional Research Service, Library of Congress, Washington, D.C., 25 July 1978, 187. See also Statement of Charles W. Freeman, 1980 Hearings, note 1 above, 44; Fox Butterfield, "New Acting Head of Chinese Government," *New York Times*, 25 April 1980, 8, col. 1; Daniel Southerland, "Hu Yaobang," *International Herald Tribune*, 17 April 1985; Xinhua News Agency, 8 January 1979.

dedicated to the communist system and would not hesitate to imprison or punish anyone with deviant views, they have, at the same time, a greater understanding of the need for institutional protections against arbitrary rule. Zhao Ziyang, for example, promised after the 1987 crackdown on students and intellectuals that a major campaign of persecution would not follow: "There is no mass support or market today for leftist policies in China, because many of us have been victims of them."<sup>327</sup> Indeed, following their advent to power, China's new leaders exposed the abuses of the Cultural Revolution and took steps to restore the rule of law and give greater legal protection to China's citizens. The PRC's first codes of criminal law and procedure were adopted, the right to defense was restored, and the training of lawyers was undertaken. Judicial review of previous miscarriages of justice was instituted and several million people unjustly prosecuted or otherwise deprived of their rights from 1949 to 1976 were rehabilitated.<sup>328</sup> Deng Xiaoping and Hu Yaobang initially supported the Democracy Movement until it became too threatening to the Party's supremacy. The 1978 Constitution affirmed "the right to speak out freely, air views fully, hold great debates, and write big-character posters." Although this provision was eliminated by 1980 and the Democracy Movement was suppressed, China's new leaders did not return the country to the utter lawlessness of its past. No executions or extensive purges of intellectuals or officials followed the crushing of the movement. Nor were any student leaders sentenced to long prison terms after the demonstrations in 1987, but there were arrests and many may have damaged their careers. Hu Yaobang's fall from his senior position in the Party was directly related to his greater tolerance of political dissension.

While a sharp curtailment of political and personal freedoms took place after the suppression of each movement, China's new leaders still allowed and encouraged wider debate on political and economic developments than had been tolerated at any time since the Cultural Revolution.<sup>329</sup> They

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327. "Hong Kong Paper Reports China Removed Reform-Minded Security Chief," *International Herald Tribune*, 1 April 1987.

328. "Legal Equality," *China Rights Annals 1* (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 32-37; Tao-tai Hsia, Reports on Human Rights in the People's Republic of China and on Recent Legal Development in the PRC, 1985 Hearings, note 25 above, 259-271, 279-293; Copper, Michael, and Wu, note 32 above, 46; "China Passes Anniversary it Would Rather Forget," *International Herald Tribune*, 5-6 May 1986; "Political Rights Restored," *International Herald Tribune*, 3-4 December 1984. The millions rehabilitated included those persecuted during the Cultural Revolution and anti-rightist campaign, the tens of thousands persecuted after the Revolution for being landlords or rich peasants, and the many hundreds arrested in Tiananmen Square in 1976 for supporting greater democracy and freedom.

329. See Daniel Southerland, "Climate of Fear Ebbs," *Washington Post* 9 September 1986; Daniel Southerland, "China Urges 100 Flowers to Bloom With Restraint," *International Herald Tribune*, 22 July 1986; Burns, note 183 above; M. Baker, "Secret Ballots Brought In," *Financial Times*, 15 November 1984; "Wang Named China Culture Minister," *International Herald Tribune*, 26 June 1986; Heng and Shapiro, "How Much Freedom," note 162 above; Barnett, note 273 above.

also encouraged greater local participation in the political process, although again within proscribed limits. These steps gave the Chinese people, however restrictive, greater political freedoms than they had since 1949.

In the economic arena, Deng Xiaoping's insistence on "socialism with Chinese characteristics" meant the lifting of economic controls at home and an open door policy abroad. China's new leadership challenged the more orthodox and conservative views of the past, and placed greater reliance on material incentives, a market economy, foreign technology, and investment. Economic decisionmaking was decentralized, workers were encouraged to play a more active role in management, private enterprise was introduced, and importance was given to those with technical as opposed to ideological skills.<sup>330</sup> Such bold experimentation demonstrated the new leadership's willingness to break with ideology in the economic sphere. Hu Yaobang openly voiced to foreigners his regret that China "wasted 20 years" after 1949 because of the "radical leftist nonsense" of Mao Zedong.<sup>331</sup> The new leaders' pragmatism and openness to ideas from abroad, coupled with their personal experiences during the Cultural Revolution, have made them considerably more receptive to human rights initiatives than their predecessors.

Since the late 1970s, Chinese officials have on occasion exhibited a willingness to make concessions on human rights, especially when economic or political benefits could be derived. In the controversial Hu Na political asylum case, the Chinese agreed to drop their protests and halt retaliatory measures after visiting U.S. Commerce Secretary Malcolm Baldrige promised greater sales of high technology to China.<sup>332</sup> Prior to Deng Xiaoping's visit to Washington in 1979, at which time full U.S.-Chinese relations were announced, the Chinese government took a number of steps in the human rights area to please their American hosts. Wang Guangmei, the American-born wife of former President Liu Shaoqi, was publicly rehabilitated. The Communist Party also announced the restoration of "citizens rights" to former landowners and capitalists, and returned property, titles, and funds seized by the government.<sup>333</sup> Deng Xiaoping in his meetings with Carter expounded on human rights progress in the system of justice, in the area of freedom of expression, and in reunification of divided families. Carter in fact

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330. See Warren Christopher, "China Goes About Face to Market," *International Herald Tribune*, 30 November 1984; J. F. Burns, "Entrepreneurs Bloom in China," *International Herald Tribune*, 4 October 1985; Daniel Southerland, "Beijing Sets the Stage for a 'Second Revolution,'" *International Herald Tribune*, 10 September 1983; Barnett, note 273 above; Copper, Michael and Wu, note 32 above, 71.

331. Warren Christopher, "A Chinese Lesson: Interest Can Overcome Ideology," *International Herald Tribune*, 10 December 1985.

332. Michael Weisskopf, "China Foreign Minister Welcomes Agreements," *International Herald Tribune*, 19 September 1983; "China Free to Buy US High Technology," *The Times*, 24 June 1983.

333. J. P. Sterba, "China Alters View of Ex-Landowners," *New York Times*, 30 January 1979, 8, col. 6.

in his memoirs described productive discussions on three human rights questions. The first was emigration. According to Carter, Deng was quite forthcoming on this issue and was perfectly willing to relax emigration controls to gain most favored nation (MFN) treatment in trade. Concerning the second question, Deng promised "there would not be any censorship," of U.S. journalists, although there "would be some limit on travel." With regard to the third question of U.S. students, Carter told Deng, "we don't want you to censor which ones can go," whereupon Deng promised "that the Chinese would try not to screen out students on grounds of ideology."<sup>334</sup>

The Chinese have responded to human rights representations made by other governments as well. French Prime Minister Jacques Chirac, when Mayor of Paris, raised the case of three imprisoned dissidents with Deng Xiaoping when Chirac visited China in 1978. The three were the authors of the famous Li Yizhe wall poster who had been arrested in Guangzhou in 1974. When released and "rehabilitated" in 1979, they publicly thanked Chirac for his intercession at an official rally hosted by government and party officials. They also publicly thanked Amnesty International for publicizing their case.<sup>335</sup> The French government subsequently intervened on behalf of another dissident, artist Li Shuang, the fiancée of a French diplomat. She was arrested in 1981 and subjected to two years of re-education through labor because of her unofficial art exhibitions and her association with a foreigner. Repeated protests by French government officials and the refusal to finalize a sale of *Mystère* planes resulted in permission for Li Shuang to emigrate and join her fiancé in France.<sup>336</sup> The French press even speculated in 1979 that the Chinese adjourned the trial of democracy advocate Fu Yuehua to curry favor with the West while Communist Party Chairman Hua Guofeng was visiting Europe. The trial came in the wake of Wei Jingsheng's trial and the Chinese reportedly did not want to risk any more negative publicity. Although in Wei's case, the Chinese had not backed off because it was an important show trial intended to warn all dissidents, they were prepared to do so in the case of Fu:

The general hypothesis held by observers is that the trial has been postponed because of the effect caused in the West and, in particular in Europe by the 15-year prison sentence of dissident Wei Jingsheng, while President Hua Guofeng makes his 'historic tour.'<sup>337</sup>

While foreign governments often have used the argument that the Chinese would not tolerate foreign "interference" in their "internal affairs,"

334. Carter, note 40 above, 207-209.

335. "Chine," *Le Monde*, 16 February 1979; see also Xinhua, "Authors of Guangzhou Wall Poster Rehabilitated," 9 February 1979.

336. See M. Lucbert, "Mlle Li Shuang," *Le Monde*, 7 October 1981; "Chinese Seize Artist," *International Herald Tribune*, 14 September 1981; "M Cheysson Estime," note 316 above.

337. "L'Ajournement du Procès de Mme Fu Yuehua Serait Lié Au Voyage du Premier Ministre," *Le Monde*, 19 October 1979.

the Chinese have shown themselves sensitive to international opinion. The freeing in 1985 of Huang Hanson, a Hong Kong-born, Harvard-trained lawyer, sentenced to fifteen years imprisonment on a spying charge, followed a campaign of international protest.<sup>338</sup> In a number of other political cases, it also has been found that Chinese courts have meted out lighter sentences to those who received international attention.<sup>339</sup> International protests about Wei Jingsheng may have helped ease the exceptionally harsh treatment and punishment to which he had been subjected. Two visiting scholars reported in the fall of 1985:

When we asked about Wei Jingsheng, China's most famous dissident, we were told he was in a labor camp in Qinghai province, reading and writing his opinions on the reforms, and that he was not being forced to do hard labor. Our sources, apparently reliable ones . . . gave us the impression in April that . . . some officials in the central government wanted him released. . . .<sup>340</sup>

The publicity Amnesty International has given to prisoners in China through their "adoption" program has produced some results. In 1983 Amnesty submitted to the Chinese government a list of prisoners of conscience and detainees about whom it lacked detailed information. After receiving the document, the Chinese released two of the prisoners mentioned in it—Ren Wandong and Chen Lu.<sup>341</sup> They had been arrested in 1979 after founding the Chinese Human Rights Alliance. In 1984, following publication of Amnesty's report *China: Violations of Human Rights*, the Chinese released from a re-education through labor camp another prisoner whose case had been highlighted in the report.<sup>342</sup> Chinese officials also informed an Amnesty representative by letter that an unofficial journalist about whom the organization had inquired had not been arrested. In 1985, Amnesty reported the release of additional prisoners of conscience adopted by the organization, among them a Roman Catholic bishop and priest.<sup>343</sup>

Since 1982, Chinese officials have been meeting with Amnesty representatives at the United Nations in Geneva and New York as well as in other cities to discuss human rights issues and cases.<sup>344</sup> Although for many years the Chinese refused to participate in such meetings, they now appear more ready to bring their country into line with international practice. Similarly,

338. "China Paroles Lawyer," *International Herald Tribune*, 16 May 1985; "Disappeared Lawyer," note 193 above. Hanson Huang, however, reportedly has not been allowed to leave China or to receive foreign visitors.

339. Silk, note 54 above.

340. Heng and Shapiro, "How Much Freedom," note 162 above, 16; see also *China Rights Annals 1* (Armonk, N.Y.: M.E. Sharpe, Inc., 1985), 39. For reports that Wei suffered a nervous breakdown and remains in dire psychological straits, see *Amnesty International Report 1986* (London: Amnesty International Publications, 1986), 215–216.

341. See *China: Violations*, note 26 above, 2.

342. *AI Report 1985*, note 18 above, 208.

343. See Statement of Andrew Nathan, 1985 Hearings, note 25 above, 80.

344. *AI Report 1983*, note 24 above, 191; *China: Violations*, note 26 above, 1–2.

while the Chinese authorities remained silent about Amnesty's first 1978 report on China, and a 1983 Amnesty memorandum,<sup>345</sup> they announced in 1984 that they would respond "at an appropriate time" to Amnesty's 1984 report.<sup>346</sup> The second report, *China: Violations of Human Rights*, charged that despite Chinese efforts to restore the rule of law, thousands were still incarcerated for expressing their political or religious opinions and that political prisoners were still subject to secret detention, mistreatment, and denial of fair trial. The Justice Ministry in 1984 denied these charges in a public statement. Its spokesman asserted that "there are no political prisoners" in China, although he admitted that "people who undermine state security and take part in subversive activities are classified as counterrevolutionaries" and "are detained."<sup>347</sup> Two months later in November 1984, following repeated Amnesty denunciations of the executions of criminals and counterrevolutionaries, the Ministry of Public Security held its first press conference for foreign correspondents to defend the "anti-crime" campaign. A Ministry spokesperson argued that executions were necessary "to educate the public," but that there were "no political prisoners or 'so-called' political dissidents in China."<sup>348</sup> The Foreign Ministry also issued a statement to counter the criticism abroad of the "anti-crime" campaign. The Ministry said that Amnesty's calls for an end to executions and abolition of the death penalty reflected "Western legal opinions."<sup>349</sup> The Justice Ministry further defended the extensive use of the death penalty in information presented to the United Nations.<sup>350</sup>

While the Chinese in their public statements have continued to insist that their human rights record is an "internal affair" into which foreigners should not intrude, they at the same time have begun to respond to their critics and engage in dialogue with them. It is interesting to note that unlike other governments, the PRC has never denounced Amnesty International. While the PRC has taken issue with Amnesty's charges, it has never criticized Amnesty as an organization. Its official press, in fact, has published news stories about Amnesty's work. For example, an official legal journal, *Faxue Zazhi*, printed information from the Amnesty book *Torture in the Eighties*.<sup>351</sup> Although the journal did not refer to the Chinese cases mentioned in the book, it did print information about torture of prisoners in other parts of the

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345. See *China: Violations*, note 26 above, 83-106.

346. *AI Report 1985*, note 18 above, 205.

347. "Beijing Denies Allegations of Human Rights Violations," *International Herald Tribune*, 29 September 1984.

348. See Mark Baker, "China Defends Need for Executions," *Financial Times*, 15 November 1984; *AI Report 1985*, note 18 above, 206.

349. See "China Says Executions Will Go On," *The Times*, 3 November 1983; Agence France Presse, 9 October 1985, 7, col. 2.

350. Burns, note 32 above.

351. See *Torture in the Eighties* (London: Amnesty International Publications, 1984): 185-186.

world. *Reference News*, an official publication with a circulation of about ten million, also has published information about Amnesty. The Parliamentary Human Rights Group (PHRG), which made representations to the Chinese government about the cultural and religious rights of Tibetans, likewise received a response from the Chinese government. In a letter to the PHRG in 1986, the government, while insisting that Tibetans enjoyed full and equal rights, pointed out that it was seeking to “facilitate” the “religious activities” of Tibetans and had “appropriated huge funds for the repairs and renovations of temples and set up Ganzhuer Sutra Printing House.”<sup>352</sup> The letter welcomed further contact with the PHRG.

In U.S. congressional hearings in 1982, a leading China specialist deemed the time “opportune” for Westerners to express concern about “cases of repression in China.” Listing the cases of five dissidents—Wei Jingsheng, Liu Qing, Wang Xizhe, Chen Lu (subsequently released) and Ren Wanding (subsequently released)—he pointed out:

For one thing, in these cases there is some convergence between American and Chinese values. Freedom of speech and publication and legal due process are, after all, Chinese constitutional guarantees. . . . Second, it is in precisely the areas of speech, publication, and due process that there is greatest support among Chinese dissenters and reformers for some change in the Chinese system. Our protests would converge with internal pressures for change.<sup>353</sup>

The view that foreign protest could bolster those within the system favoring reform was borne out by a group of U.S. university presidents who visited China as early as 1974. Although China at that time was ruled by the Gang of Four, members of the delegation “challenged the intellectual wasteland” they encountered in China, the persecution of intellectuals, and the highly politicized education being offered. Their doing so, affirmed one delegation member, helped Deng Xiaoping in his internal struggle with the Gang of Four to lessen the degree of ideological training at the universities. “By remaining silent we not only would have harmed our Chinese colleagues, but we also would have hindered the emergence of the intellectual and political forces in China that would benefit our nation as well as China.”<sup>354</sup>

China’s increasing responsiveness to world public opinion has made it more likely that intercessions on occasion will have impact and also will lend support to those working within the system for greater political and economic reforms. *New York Times* correspondent Fox Butterfield reported having been told that Deng Xiaoping’s “brain trust” included some of the “freest-thinking people” in China. However, when they gave public talks or received foreign delegations, “they often took a conservative line, criticizing

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352. Letter from the Chinese Ambassador in London to the PHRG, 8 April 1986 (unpublished).

353. See Statement of Andrew Nathan, 1982 Hearings, note 57 above, 332.

354. Goldman, “China’s Intellectuals,” note 44 above, 13–14.

dissidents like Wei . . . to protect themselves against attacks from hard-line bureaucrats. But in private they were far more liberal and democratic.”<sup>355</sup> Certainly Western criticism of the Party’s “spiritual pollution” campaign against political and artistic deviance in 1983 helped to bolster those in the Party opposed to the campaign. The campaign’s subsequent halt in 1984 appeared to be a response both to internal opposition and to the negative reaction the campaign had engendered abroad. Premier Zhao Ziyang, while on a visit to the United States and Canada, heard repeated criticism of the campaign for its crackdown on Western ideas and influence. Fearing that this might interfere with China’s growing economic ties with the West, he publicly denied the existence of an “anti-West campaign in China.”<sup>356</sup> Soon thereafter, the Minister of Propaganda was dismissed in what was reported as a victory for those supporting economic reforms and China’s open door policy. Similarly, international protests against forced abortion, infanticide, and sterilization in China have led to official condemnations of coercion and a slowing down of the program.<sup>357</sup>

Amnesty’s persistent criticism of China’s practice of parading condemned prisoners before mass rallies also could lend support to those working within the system to strengthen legal safeguards. Amnesty’s objections to this practice have been based not only on international standards but on Chinese law. A 1979 regulation forbids condemned prisoners from being “exposed to the public.”<sup>358</sup> Although Amnesty’s protests to date have not had substantial effect, some of the public parading of prisoners has stopped and it can be assumed that there are those in the government who would like to see the rallies halted and Chinese law enforced.

This also could be true in other instances. The Public Security Bureau, for example, has been violating both the spirit and the letter of Chinese law by not informing relatives of the arrest, whereabouts, or trial date of detainees. It also has violated the criminal code by physically abusing prisoners. A Public Security spokesman in 1987 publicly criticized officers “who resort to torture during interrogation or bend the law for the benefit of relatives and friends.”<sup>359</sup>

Amnesty further has called upon the Chinese government to bring its judicial system into conformity with international standards. It has called for open trials and for the publication of trial transcripts. It has urged an end to

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355. Butterfield, *China: Alive*, note 4 above, 558–559.

356. “Beijing Reportedly Cancels Drive to Eradicate ‘Spiritual Pollution,’” *International Herald Tribune*, 25 January 1984; Michael Weisskopf, “Chinese Party Propaganda Official Reportedly Resigns,” *International Herald Tribune*, 11 April 1984. For discussion of internal politics involved, see Heng and Shapiro, *Intellectual Freedom*, note 18 above, 159–165.

357. See Statement of James Lilley, 1985 Hearings, note 25 above, 120–121, 179–180; N. Kristof, “China’s Birth Rates Are Rising Again,” *International Herald Tribune*, 22 April 1987.

358. *China: Violations*, note 26 above, 54, 73–74.

359. “China Removed Reform-Minded Security Chief,” note 327 above.

the practice of retaining prisoners beyond their sentence. It has called for the repeal of re-education through labor, the practice widely used to detain critics without charge or trial. Chinese lawyers have echoed Amnesty's appeals. They have spoken out against the suspension of constitutional rights by extralegal procedures. They have called for greater authority to be accorded to the courts. They have pressed for increased legal protections for freedom of speech.<sup>360</sup>

It can be expected that the Chinese, because of their open door policy, will continue to undergo a process of socialization that will make them more amenable to hearing and discussing the views of others. The Chinese leadership has learned to expect that human rights will be raised in their discussions with some Western leaders, albeit with restraint, and that they sometimes will be questioned about human rights by NGOs, journalists, and members of the public when they travel abroad. Hu Yaobang, while on a visit to Britain in 1986, was publicly asked by a representative of the PHRC about the cases of three political dissidents imprisoned in China.<sup>361</sup> During Zhao Ziyang's visit to the United States in 1984, a New York-based group called the Chinese Alliance for Democracy held a news conference to draw Zhao's attention to the need for greater freedom of speech and press in the PRC.<sup>362</sup> Members of the Council on Foreign Relations on a visit to the PRC in 1986 raised the question of prison conditions with Chinese officials.<sup>363</sup> Seeing how important a role human rights has come to play in the West's relations with the Soviet Union, the Chinese undoubtedly realize that while the issue of human rights is not a significant part of their relationship with the West at present, this could change dramatically in the future.

### Increased Participation in Human Rights Fora

At the United Nations in the 1980s China has exhibited greater willingness to have other nations scrutinize its human rights record. Its decision to ratify UN human rights treaties, such as those on genocide and racial discrimination,<sup>364</sup> signalled a readiness to accept international standards and a willingness to be judged by their terms. Under the Racial Discrimination Conven-

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360. Edwards, Henkin, and Nathan, note 3 above, 132-137.

361. Pick, note 243 above.

362. Don Oberdorfer, "Reagan Greets Zhao," *International Herald Tribune*, 11 January 1984.

363. Paul Kreisberg, "China: Progress and Stress," *Council Briefings*, 7, Council on Foreign Relations, New York, (February 1987): 5.

364. See International Convention on the Elimination of All Forms of Racial Discrimination and Convention on the Prevention and Punishment of the Crime of Genocide, contained in *Human Rights: A Compilation*, note 70 above. For Chinese support for the elaboration of international legal standards, see Edwards, Henkin, and Nathan, note 3 above, 53, 163.

tion, China has pledged not to discriminate against minorities or racial groups in their exercise of freedom of religion, expression, assembly and association, cultural activities, or in their enjoyment of political and economic rights. Because the Convention is applicable to "national or ethnic" minorities as well as racial groups, China is now answerable to the international community for its treatment of Tibetans and other minorities. It has to report regularly on its compliance to a committee of eighteen states which may challenge its reports or even submit questions through an interstate complaints procedure. It is not a coincidence that China's ratification of the Convention coincided with its efforts to restore limited rights to Tibetans and accord greater rights to minorities in its 1982 Constitution. The ratification by China of the Genocide Convention also coincided with pronouncements to allow greater cultural and religious freedoms to minorities. The PRC's vulnerability to the charge that China committed cultural genocide in Tibet<sup>365</sup> no doubt influenced its decision to ratify the Convention and to admit having erred in its minorities policies.

Although the government of China has not yet ratified the International Covenants on Human Rights, the most comprehensive UN treaties and those which deal with political rights, it has agreed to their applicability to Hong Kong.<sup>366</sup> The Chinese also have ratified international human rights treaties on the rights of women, refugees, and on apartheid. Interestingly enough, the Chinese have cited international standards in publicly criticizing other governments, such as the Soviet Union and Taiwan, for their human rights violations. The Chinese have taken to task the Soviet Union for the imprisonment and exiling of dissidents, and Taiwan for the suppression of democracy advocates.<sup>367</sup>

In UN human rights bodies, the PRC has begun to play a more conspicuous role. It joined the Commission on Human Rights in 1982 and in 1984 became a member of its Sub-Commission on Prevention of Discrimination and Protection of Minorities. In these bodies it has begun to vote for resolutions authorizing UN investigations into the human rights practices of member states. In 1984 it supported the appointment of a rapporteur to examine the human rights situation in Afghanistan, despite Soviet and East European protests that this would constitute interference in internal

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365. See P. Wangyal, "Tibet: A Case of Eradication of Religion Leading to Genocide," *Toward the Understanding and Prevention of Genocide: Proceedings of the International Conference on the Holocaust and Genocide* (Boulder: Westview Press, 1984); International Commission of Jurists reports on Tibet, Geneva, 1959-1960; and notes 158 and 233 above.

366. See note 148 above. For texts of the International Covenant on Civil and Political Rights and International Covenant on Economic, Social, and Cultural Rights, see note 70 above.

367. See Copper, Michael, and Wu, note 32 above, 37 n.2; *Freedom Appeals* 9 (March-April 1981): 19.

affairs.<sup>368</sup> In 1985, it supported a UN investigation into the human rights situation in Chile.<sup>369</sup>

Support for investigations of human rights in other countries will make it more difficult for the PRC to shun inquiries into its own practices should these be proposed in the future. In 1985, for the first time critical information on China was submitted by NGOs to the Commission on Human Rights. Amnesty International forwarded information on executions in China to the Special Rapporteur on Summary and Arbitrary Executions. Although the Rapporteur's 1985 report did not refer to China by name, it drew attention to "executions" in one country "for a wide range of criminal offences normally not punishable by death" resulting from a nationwide "anti-crime" campaign.<sup>370</sup> The International Fellowship of Reconciliation (IFOR), an NGO accredited to the United Nations, raised China's "discriminatory" policies and practices against Buddhists in Tibet in an oral statement before the Commission. IFOR called upon China to allow the United Nations entry in order to advise China on the restoration and preservation of religious rights in Tibet. China's representative in response criticized IFOR for raising the issue and rejected UN assistance as unacceptable interference in its internal affairs. But at the same time, the Chinese delegate delivered a detailed report on how the Chinese government was working to reinstate freedom of religion in Tibet and also admitted past mistakes:

We do not deny the truth that during the ten-year disturbance of the Cultural Revolution, because of the sabotage by the 'gang of four,' the nation and people of various nationalities suffered a great deal. In Tibet, as in other parts of the country, normal religious life was prohibited, lamaseries were shut down, some were demolished, with serious consequences. After the ten-year disturbances of the Cultural Revolution, however, the Chinese Government has adopted effective measures to eliminate those consequences.<sup>371</sup>

While China continues to defend the domestic jurisdiction of states in the human rights area, its own actions have undermined this position, and in a number of other fields it has begun to accept the UN's authority. For example, the PRC surprised many in the international community when it agreed

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368. Iain Guest, "UN Human Rights Panel Authorizes Naming an Afghan Investigator," *International Herald Tribune*, 16 March 1984; see also Resolution 1984/55, *Commission on Human Rights: Report on the 40th Session* (6 February-16 March 1984), U.N. Doc. E/1984/14, E/CN.4/1984/77, 10, 94.

369. See Resolution 1986/63 on Chile, *Commission on Human Rights: Report on the 42nd Session* (3 February-14 March 1986), E/1986/22, E/CN.4/1986/65. The PRC, however, continued to abstain or not participate in votes on other fact-finding missions. Examples are the human rights conditions in El Salvador and Iran.

370. See Report by the Special Rapporteur on Summary or Arbitrary Executions 12 February 1985, U.N. Doc. E/CN.4/1985/17, 2. See also, *AI Report 1985*, note 18 above, 13.

371. Rene Wadlow, "Tibet Discussed in UN Commission on Human Rights," *Tibetan Review*, May 1985, 8-10, 15.

that the International Atomic Energy Agency could inspect its nuclear facilities.<sup>372</sup> Although it had joined the agency in 1983, China had regularly refused to allow access to its plants. Soon after, the PRC began to permit the World Food Programme to visit areas of poverty and hunger in China closed off to outsiders for years.<sup>373</sup> It is conceivable that in time the Chinese will concede to the United Nations the right to a fact-finding mission in the PRC in the human rights area. In 1983, China announced that it would resume participation in the International Labour Organization (ILO). At the ILO, it will come under the scrutiny of the Committee on Freedom of Association which actively takes up infringements of trade union rights. In March 1983, seventy-eight cases were pending before this committee on forty-one countries.<sup>374</sup> The ILO also will undoubtedly scrutinize the Chinese re-education through labor system under which political prisoners, common criminals, and detainees have been forced to do hard labor under exceptionally harsh conditions. The Soviet Union's reported use of prison labor to build the Siberian gas pipeline already has been the subject of a widely publicized ILO investigation.<sup>375</sup>

Chinese cooperation with the International Committee of the Red Cross (ICRC) further has begun to develop. In May 1987 for the first time China hosted a conference with the ICRC in Beijing to publicize international humanitarian law and the Geneva Conventions.<sup>376</sup> Closer ties with the ICRC could possibly lead to ICRC visits to Chinese prisons and labor camps. Following the Chinese-Vietnamese border war of 1979, the government of the PRC surprised many by allowing immediate ICRC access to prisoners held by China.

The potential for international human rights action on China has also increased at the regional level, where the United Nations with Chinese concurrence, has been encouraging the development of regional efforts to promote and protect human rights.<sup>377</sup> A UN seminar held in 1982 to promote the establishment of human rights machinery in Asia adopted a series of recommendations to speed up regional human rights protection. Although

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372. "China to Allow Inspection of Nuclear Plants," *International Herald Tribune*, 25 September 1985.

373. "Peking Looks to the UN," *The Times*, 6 May 1986, 12, col. 4.

374. *Human Rights Internet Reporter* 8 (April-June 1983): 428 summarizing an ILO Press Release, Geneva, 4 March 1983.

375. See USIA Wireless File AF-833: "ILO to Investigate Charges of Soviet Forced Labor," 1 June 1983, Washington, D.C.

376. International Committee of the Red Cross, *Bulletin*, June 1987.

377. See Resolution 1986/57 on Regional Arrangements for the Promotion and Protection of Human Rights in the Asian-Pacific Region, *Commission on Human Rights: Report on the 42nd Session*, note 369 above, and Resolution E/CN.4/1987/L.71 adopted at the Commission's 43rd Session. See also Report on UN Seminar on National, Local & Regional Arrangements for the Promotion & Protection of Human Rights in the Asian Region, 21 June-July 2, 1982, Colombo, Sri Lanka, UN Doc. A/37/422, Annex; and *Human Rights Internet Reporter* 8 (September-November 1982): 56-62.

agreement could not be reached on the establishment of a human rights commission for Asia, several nongovernmental bodies formed in the region to promote human rights. These include the Regional Council on Human Rights in Asia, the Asian Coalition of Human Rights Organizations, the Law Associations for Asia and the Western Pacific (Lawasia), and the Asian Legal Resource Center.<sup>378</sup> Although these organizations are new and currently have no members from the PRC, they have begun to pay some attention to China. Lawasia's *Human Rights Bulletin*, for example, has already included information on the PRC in its surveys of human rights legislation. Should these groups develop into activist human rights bodies that deal with all states in the region, the PRC will have to become more responsive to them. The government of Australia, active in South Asia in matters of human rights, reportedly began in 1984 to raise human rights questions with the Chinese in private meetings at the United Nations. Australian delegates in particular called attention to the mass executions of the "anti-crime" campaign and to discriminatory practices against Catholics and Protestants. The Australian government further has urged the PRC to ratify the UN Covenants on Human Rights.

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378. The Regional Council on Human Rights in Asia was founded in 1982 in Manila by jurists and human rights advocates from Indonesia, Philippines, Malaysia and Thailand to promote a regional human rights declaration, encourage ratification of the International Covenants, receive petitions of human rights violations, and publish findings on human rights conditions. The Council in 1983 issued a "Declaration of the Basic Duties of Asian Peoples and Governments" and a "Statement on the Promotion of Human Rights in the Asian Region." In 1984 it called on governments in the region to provide information on those detained, to lift restrictions on freedom of association and expression, and allow the formation of independent organizations. The Asian Coalition of Human Rights Organizations was established in 1982 by Lawasia to bring together NGOs active in human rights in the Asian region. The Coalition held its first meeting in the Philippines in 1983 and became an independent organization in 1984. It studies legislation relevant to human rights and has adopted resolutions on preventive detention and on extra-legal killings of criminals and dissidents. The Law Association for Asia and the Western Pacific (Lawasia), headquartered in Australia, is an association of lawyers to promote administration of justice, rule of law and the protection of human rights in Asia. Its *Human Rights Bulletin* surveys human rights laws in Asia, including in the PRC. Its Human Rights Standing Committee issues reports on human rights conditions, makes reports to governments on human rights violations, and sends observers to trials. It includes lawyers from a broad range of Asian countries. The Asian Legal Resource Centre and Asian Human Rights Commission were established in Hong Kong in 1984 to investigate complaints of human rights violations, seek solutions through mediation, publicize violations when conciliation fails, and promote greater awareness of human rights in the region. They were founded by forty-three concerned Asians from fourteen countries. The All-Asia Bar Association was founded in 1981 in Japan to promote international human rights law in Asia, further the establishment of regional human rights bodies, and safeguard the independence of the judiciary and the role of lawyers in the region. Seventy-two lawyers from thirteen countries, including Taiwan and Hong Kong, attended its founding meeting. For additional information, see *Human Rights Internet Reporter* 10, (September-December 1984): cover page, 203-205.

## CONCLUSION

While greater potential exists today for dealing with human rights in the PRC, most governments, intergovernmental bodies, and private groups still hesitate to act vigorously on human rights violations in China. Apart from the efforts of Amnesty International, there are relatively few demarches, documented reports, or diplomatic initiatives, and no systematic pressure.

Western inaction can only make it easier for those Chinese officials who oppose the reforms introduced by Deng Xiaoping and his followers to push China back to the political oppression and economic orthodoxy of its past. Neither the political nor the economic reforms have strong enough roots to prosper without encouragement. Old ways are entrenched. The policies of Deng and his colleagues have come under attack by hardliners in the military, the Communist Party, and the government, despite the turnover of leadership in these bodies. In the economic sphere, conservatives supportive of centralized planning have come more to the fore, and decentralization, market incentives, and price reform reportedly have been slowed down.<sup>379</sup> Even before General Secretary Hu Yaobang's ouster, concerned scholars warned against hailing "the advent of capitalism in China."<sup>380</sup> They pointed out that the state, while encouraging private initiative, also guided it with a strong hand. A too rapid growth of private enterprise could produce a backlash from Party conservatives and from local officials resentful of the new found wealth of entrepreneurs and fearful that a growing private sector could diminish Party and army influence. Cases were reported of highly successful private enterprises being taken over by the state, since there were no legal institutions to protect private property.<sup>381</sup> Free economic choice, according to knowledgeable observers, remained "the exception, not the rule" in China, where "the system is still based on the assignment of jobs tying people to the kind and place of work, separating families, preventing labor mobility, and for millions working in reeducation or detention camps, forced labor."<sup>382</sup> There is no right to strike. Although China's new leaders have brought an economic revolution to the country, much remains to be accomplished. No guarantees exist that economic reforms will flourish unhindered even though the leadership's commitment to them is strong. Sustained international support is clearly necessary.

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379. See Daniel Southerland, "China's Road to Change Suddenly Turns Bumpy," *International Herald Tribune*, 8 April 1987; William Drozdiak, "Deng Says Problems are Ended," *International Herald Tribune*, 4 March 1987.

380. Merle Goldman and Marshall Goldman, "The Change on Goldfish Lane Could be Reversed," *International Herald Tribune*, 23 July 1986.

381. Merle Goldman, "Muddling After Mao," *The New Republic*, 16 June 1986, 40.

382. Copper, Michael, and Wu, note 32 above, 96. See also Edwards, Henkin, and Nathan, note 3 above, 33.

In the political sphere, where there has been far less progress towards reform, prospects are even shakier. No effective legal safeguards exist to protect freedom of expression. Although the legal system now provides more protection for individuals, the parameters of acceptable expression of opinion are still subject to political whim. Judicial redress is not applied in political cases, and Party control over judicial decisions remains pervasive. The removal of the president and vice president of the Academy of Sciences is a recent case in point. Although the two officials were elected by the Academy in its first and only election in 1981, they were relieved of their positions at the behest of the Party, which objected to their endorsement of greater intellectual freedom. The courts did not challenge the Party's overruling of the Academy's election results and cannot be expected to. The clauses in the Constitution that provided for free speech were restricted in 1980, as emphasis was given to the requirement that citizens uphold the four principles of Marxist-Leninist and Maoist thought, Communist Party leadership, the dictatorship of the proletariat, and the socialist road. While intellectuals periodically have been encouraged by the Party to speak out and expression of opinion broadened considerably in the 1980s, intellectuals still must proceed at their own risk. In 1983, intellectuals fell victim to the "spiritual pollution" campaign because they did not sufficiently applaud the overriding role of the Party in art and literature. Others came under attack in 1985 for calling upon economists to "free themselves from Marxist books."<sup>383</sup> More recently, intellectuals were fired from their jobs and publicly pilloried for advocating greater political freedom and diminished Party controls. Although the Party has promised to never again subject intellectuals to the violence of the Maoist period, intellectuals still risk punishment, and many as a result are refraining from expressing their views on political and economic subjects to the detriment of economic development.

Nonetheless, continuation of political reform is likely to depend on the extent to which China pursues economic reform. China's leaders, because of their desire for rapid modernization, will have to continue to encourage their professionals to speak out in order to unleash the creativity and enthusiasm needed for development. Greater material benefits and economic liberalization will also spur demands for greater participation in the political process. The tens of thousands of Chinese studying abroad, exposed to economic and political freedoms unknown in their own society, can be expected to push in this direction when they return home. Unlike the Soviet leadership, China has been sending its youth and professionals abroad, in particular to the West, because of its desire to bring new ideas into the PRC on a host of political and economic subjects.

At the same time, there is no guarantee that greater economic liberaliza-

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383. Southerland, "China Urges," note 329 above; see also Goldman, "Muddling After Mao," note 381 above.

tion will generate greater political freedoms. Economic and political development do not necessarily proceed on parallel tracks. Scholars, in fact, widely differ over the potential for human rights development in China under the reforms and the extent to which greater freedoms have already developed.<sup>384</sup> One leading observer recently commented that the reforms thus far have only changed China from "a terror-based totalitarian dictatorship to a 'mature' administered dictatorship of the post-Stalin or Eastern European type."<sup>385</sup> Another commented, following the detention and expulsion of the *New York Times* bureau chief in 1986, that it was a "useful reminder" that "deep strains of authoritarianism, traditionalism, secretiveness and suspicion are widely prevalent" in reformist China.<sup>386</sup>

While outside support and encouragement for the reforms are clearly essential, support for the reforms is not a sufficient response to the persistent and serious human rights violations in the PRC. Unfortunately, applause for the reforms has become the new rationale for brushing aside the fact that China remains one of the most repressive countries in the world. Western political conservatives seem to have become so taken with China's budding free enterprise system and the Western business it has generated that they tend to overlook the civil and political transgressions that preoccupied them in the past. Some even have taken to gloating over China's new capitalism. Western liberals, although more bothered than in the past by human rights violations in China, too readily see in the reforms a reason to take a wait and see approach and to argue that China's policies are relaxing repression faster than Western intercessions might. The *Washington Post* essentially fell into this line of thinking when it observed in a recent editorial that "the general tendency to cheer for dissent in police states is tempered in some quarters by awareness that China . . . has at least been inching toward a free market and experimenting with a degree of political openness."<sup>387</sup>

Western governments in particular have found it convenient to argue that in order to encourage a more open society in the PRC, it is enough to support the reforms, maintain exchange programs with China, beam the Voice of America into the country, and participate in China's economic

384. See Jonathan Mirsky, "Cracks in the Wall," *Amnesty International: 25 Years Against Injustice*, British Section, no. 21, June-July 1986; Jonathan Mirsky, review of *Chinese Democracy*, by Andrew Nathan, *The Observer*, 25 May 1986; Mab Huang, note 248 above; Jill Friedman, "Policy Succession in China," review of *The Limits of Reform in China*, Ronald Morse, ed., *Problems of Communism* (January-February 1985): 83-87; Silk, note 54 above; statement of Harry Harding, 1985 Hearings, note 25 above, 7-56; Edwards, Henkin, and Nathan, note 3 above, 38, 75; Heng and Shapiro, "How Much Freedom," note 162 above; Copper, Michael, and Wu, note 32 above, 6, 26-27, 71-73, 95-100.

385. See Mirsky, review of *Chinese Democracy*, note 384 above.

386. Paul Kreisberg, "'New China' Retains Old Ways," *International Herald Tribune*, 31 July 1986.

387. "Telling China to China," *Washington Post*, editorial, reprinted in *International Herald Tribune*, 15 January 1987.

modernization.<sup>388</sup> This position easily rationalizes already established policies of placating China. As one shrewd observer pointed out, because China will become one of the major economic and military powers of the next century, Western governments have become "terrified of truthful talk" about it and have fostered the growth of a "lobby devoted to pleasing Beijing."<sup>389</sup> When U.S. Secretary of State Shultz visited the PRC in March 1987, he loudly applauded the open door policy and Chinese efforts at modernization. He asked for and received assurances about continued economic reforms and U.S. investment, but he essentially ignored China's human rights violations.<sup>390</sup> In Britain, at a Chatham House meeting in 1986, when the Honorary Secretary of the PHRG asked Hu Yaobang about three political prisoners held in China, the moderator, James Callaghan, a former Labour Prime Minister, interrupted the questioner twice. As Callaghan did not interrupt any other questioner, it would appear that he did not want the subject of human rights raised or the names of prisoners Liu Qing, Wei Jingsheng, and Wang Xizhe mentioned. Representatives of the U.K.-China Friendship Society also protested to the PHRG representatives. They evidently feared that good relations and trade with China would be jeopardized by raising embarrassing points. Even British press accounts of the session called the questions "delicate" and "sensitive,"<sup>391</sup> adjectives not used to describe human rights questions asked of other visiting foreign officials.

The sympathy felt internationally for Deng Xiaoping and his colleagues because of the reforms has been serving to erode vital concern for those whose rights are abused in China. Although it is to be expected that PRC officials will bridle or act defensively when human rights issues are raised, the real danger is when foreign observers supportive of Deng react the same way. It is not, after all, surprising that a government which arrests Wei Jingsheng and has him beaten in prison, which publicly humiliates and punishes Fang Lizhi for his views, and which executes thousands without due process would like everyone to focus attention on China's reforms. What is surprising is that there are governments and people in the West who are willing to do just that and by their silence relieve Deng and his colleagues of accountability for their misdeeds.

The contrast with the Soviet Union could hardly be more stark. There,

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388. See Statement of Harry Harding, 1985 Hearings, note 25 above, 92; see Statement of James Lilley, 1985 Hearings, note 25 above, 122; Freedom House Conference, note 57 above.

389. George Will, "Asylum for Hu: A Splendid Offense," *International Herald Tribune*, 9-10 April 1983.

390. See Secretary of State George Shultz, "China and the U.S.," *Current Policy* 930 (Department of State, March 1987); Shipler, note 321 above. Shultz, in protesting the expulsion of two American journalists from the PRC did speak of the value of freedom of the press to the United States.

391. See *Financial Times*, 12 June 1986; Pick, note 243 above. The author represented the PHRG at the meeting.

irrespective of the economic and political reforms introduced by Mikhail Gorbachev, Western leaders have used their leverage to insist on human rights concessions. When Secretary Shultz was in Beijing in March 1987, he neither met with Chinese dissidents nor said anything publicly about human rights violations. On visiting Moscow in April, he took reporters and television cameramen with him to meet Soviet refuseniks (Jews denied permission to emigrate) and used the occasion to declare that "we never give up, we never stop trying" to advance human rights in the Soviet Union.<sup>392</sup>

Similarly, Prime Minister Thatcher, while visiting Moscow in 1987, openly met with Soviet dissidents, most notably Andrei Sakharov, and publicly called for greater freedom of expression, information, movement, and religion. Western leaders were not deterred from raising human rights concerns out of reverence for glasnost or out of fear that doing so would undermine relations with the Soviet Union. Although for many years it had been argued, as is now the case with China, that Western expressions of concern would impair political, economic, or military relations, the record has largely shown that Western intercessions with the Soviet Union have not served to jeopardize other objectives. Arms control agreements have been successfully negotiated at the same time that human rights issues have been brought to the fore. Concessions on the part of the Soviet Union, when made, are usually seen as a sign of improvement in East-West ties. But most important, Western human rights initiatives have achieved important results for individuals and groups suffering abuse. The initiatives have led to the release of political prisoners, to better treatment for detainees, to exit visas, and to family reunifications, and overall have exercised a restraining influence on Soviet authorities.<sup>393</sup> The freeing from exile and imprisonment of dissidents Andrei Sakharov, Yuri Orlov, Anatoly Sharansky, Anatoly Koryagin, to name but a few, came about only after years of sustained international pressure by governments, NGOs, scientific, literary, and medical organizations, parliamentarians, and many eminent individuals. Not all of the Soviet leadership was immune to the urgings of the international human rights community, and the reformers who are now at the fore find it beneficial to the growth and development of Soviet society to eliminate some of the more blatant human rights violations which were publicized internationally.

Although China's new leadership and open door policy present opportunities to governments, private groups, prominent individuals, and international NGOs to make their concerns known, little has been done by com-

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392. Gary Lee and Don Oberdorfer, "Shultz Meets Dissidents At Embassy in Moscow," *International Herald Tribune*, 14 April 1987.

393. Roberta Cohen, "The Soviet Union: Human Rights Diplomacy in the Communist Heartland," *The Diplomacy of Human Rights*, David Newsom, ed. (Washington: University Press of America, 1986), 175-185.

parison to the Soviet Union. Unlike the names of Soviet human rights monitors, the names of the still incarcerated members of the Democracy Movement are not widely known. No brochures with photographs have been produced pointing out their harsh terms of imprisonment and lengthy sentences. Apart from Amnesty International, no sustained efforts have been made to pressure the authorities for their release. Yet Wei Jingsheng, now half way through a fifteen-year sentence, reportedly has been "driven mad" by long years in an isolation cell and has been treated for schizophrenia, although some reports say he now is receiving better physical treatment. Xu Wenli, jailed for fifteen years as well, was reportedly placed in solitary confinement after describing in a document smuggled out of prison the screams of prisoners being beaten and electrically shocked. Xu also was confined to a windowless cell where his rations were cut, exercise was forbidden, and reading and writing materials were denied. Liu Qing's sentence was lengthened from three to ten years after he publicized the brutal abuse to which he had been subjected in an account that appeared in the West.<sup>394</sup> Maintaining near silence about the democracy advocates will certainly not speed their release or lead to better treatment for them.

But unfortunately human rights commentary has tended to dwell on the reforms. Liang Heng and Judith Shapiro have emphasized that "a greater degree of dissent is tolerated today," that former members of the Democracy Movement have joined the Party, and that "very few people are being arrested today for political offenses."<sup>395</sup> It is as if a trade-off has been made. Fewer political arrests today can justify overlooking the thousands of political prisoners languishing in jail for past offenses, whether they be democracy activists, religious believers, ethnic minority members, counter-revolutionaries, radical leftists, or former members of the Kuomintang still held for "crimes" committed prior to 1949.<sup>396</sup>

In the same way, the release and rehabilitation of hundreds of thousands of prisoners has caused many to ignore the prisoners who remain in China's pervasive labor camp system. What are their numbers, their treatment, their sentences? What were their offenses? The State Department's human rights report for 1986 reports a total prison and labor camp population of between two to five million.<sup>397</sup> Yet little attention is focused internationally on the political prisoners who work side by side with common criminals in mines, limestone quarries, factories, and farms. Scholar Simon Leys has explained that Western opinion has not yet really registered the

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394. See *AI Report 1986*, note 340 above, 215–216; Davies, note 182 above; "Inside the Chinese Gulag," *Newsweek*, 19 January 1987, 34. For estimate of 200 democracy advocates still in jail, see Mirsky, "Cracks in the Wall," note 384 above.

395. Heng and Shapiro, "How Much Freedom," note 162 above, 14, 16.

396. Copper, Michael, and Wu, note 32 above, 52; see also "Chinese Gulag," note 394 above.

397. Department of State, *Country Reports on Human Rights Practices for 1986* (Washington, D.C.: U.S. Government Printing Office, 1987), 686.

atrocities of the Cultural Revolution, although it finally conceded that the atrocities took place. He predicts that Chinese Solzhenitsyns will come forward in the future to document today's "Gulag," which though reported, is not yet fully registered either.<sup>398</sup>

The summary execution of thousands of common criminals and counterrevolutionaries has been going on since 1983, notwithstanding the new leaders' promises to end official violence. Surprisingly little attention has been paid to these killings. The U.S. government estimates that between 7,000 and 14,000 persons were executed without due process between 1983 and 1986. Other sources put the numbers higher.<sup>399</sup> China's minorities, totalling about sixty million people, reportedly undergo continuing discrimination as well, despite greater legal rights on paper. The execution and imprisonment of Tibetans has continued into 1987, together with the Sinocization of the region. Some 3,000 to 4,000 Tibetans are reported to be in prison for antistate activities.<sup>400</sup>

The plight of those being persecuted in the wake of student demonstrations should not be minimized either. Scientific and professional groups in the West have often required in exchange for their cooperation with the Soviet Union an easing in persecution of Soviet intellectuals. They similarly should insist on respect for the human rights of those Chinese intellectuals urging greater freedoms. The purges of 1987 will probably not stop there. Magazine editors continued to be dismissed. Greater numbers of scientists, writers, economists, and journalists supportive of political reform could become targets in the future.<sup>401</sup>

Western support for the reforms has made it difficult to see the dissatisfaction that exists in China. When student demonstrations erupted at the end of 1986, a *New York Times* correspondent wrote that "the pro-democracy demonstrations by university students over the last several weeks have revealed a depth of discontent among the elite of China's youth that was unsuspected until now."<sup>402</sup> One might ask why this discontent was unsus-

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398. John Gross, review of *The Burning Forest*, by Simon Leys, *International Herald Tribune*, 28-29 December 1985.

399. See *Country Reports*, note 397 above; see also note 32 and 183 above.

400. See Mirsky, note 384 above; Copper, Michael, and Wu, note 32 above, 32, 50, 51; Edwards, Henkin, and Nathan, note 3 above, 118; Statement of James Lilley, 1985 Hearings, note 25 above, 106, 118-119; June Teufel Dreyer, Freedom House Conference, note 57 above, 257-259; Avedon, note 232 above; Edward Gargan, "Tibet - China's Untamed Dragon," *International Herald Tribune*, 17 May 1987. *Index*

401. Goldman and Wagner, note 280 above, 20; see also "China," note 284 above, 36.

402. Edward Gargan, "China's Unhappy Chosen," *New York Times*, 26 December 1986. See also Richard Nations, "SLOC: The Unerring Knack for Misreading Chinese Tea Leaves," *International Herald Tribune*, 28 February-1 March 1987. In this latter article, the author points out that the Standard Line on China (SLOC), which insists on congenial reports about the PRC, time and again prevents Westerners from seeing the more stark realities taking place.

pected. Is it so strange that the Chinese might have found it unacceptable to have so little say in the running of their country? The *New York Times* article went on to point out that "the absence of substantive liberalization in the daily lives of Chinese has become increasingly apparent to students on Chinese campuses. Students have no decision in who their representatives to student councils are, have no role in picking student candidates to local people's congresses . . . and no freedom to choose where they will work after graduation."<sup>403</sup>

In the past, the international community not only ignored the millions of Chinese suffering through the Cultural Revolution but glibly gave credence to the rosy official version given out by the PRC at the time. More recently, enthusiasm in the West for China's economic reforms has not only overshadowed concern for China's human rights problems but has contributed to the West ignoring or minimizing the aspirations and goals of those Chinese seeking greater freedoms. It is too readily assumed that because China has made strides in the fields of health, education, food, and housing, and has introduced market incentives, the Chinese must be satisfied. The economic strides of other Asian countries – more substantial in most cases than those of China – have never blinded the human rights community to the aspirations of their people for greater political and social freedoms. International human rights efforts, in fact, have intensified on behalf of groups in South Korea and Taiwan seeking greater political liberty. But China's economic accomplishments have lulled foreign observers into not pressing vigorously for political and legal institutions that could better protect China's citizens and strengthen the underpinnings of its economic modernization. Two scholars have wisely pointed out that the task of the West "is to respect their [Chinese] humanity by assuming their oppressions to be as keenly felt as those of other similarly-situated peoples, and their potential desire for freedom to be as great." For the Chinese, they observed, "are not a separate breed of humanity, gathered into an undifferentiated mass with mass interests. They are people, and people with individual and changing concerns."<sup>404</sup> Certainly no other government, whether communist or non-communist, has been able to persuade the outside world that its people were not entitled to the full range of rights in the Universal Declaration of Human Rights. Yet China's minimization of civil and political freedoms has continued to be viewed by many with tolerance.

Undoubtedly, many governments will continue to exempt China from human rights standards. Many NGOs will continue to focus on those countries of Asia about which there is less political contention and where they can send missions and trial observers, engage in debates with governments, work with local dissidents, and more easily spur change. They will be guilty

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403. Ibid.

404. Gastil and Seymour, Freedom House Conference, note 57 above, 135.

of the selectivity that Amnesty International has warned against. More important, they will be guilty of a great disservice to the Chinese people, in particular those who have begun to look to the international human rights system for support. And ultimately, of course, they will compromise their own values. For if when faced with a challenge the international community backs away from its human rights responsibility, it will erode its own inner strength. Andrei Sakharov, who in 1979 issued an appeal to the Chinese authorities on behalf of Wei Jingsheng, warned the West that it will subvert its own freedom if it shrinks from protesting human rights violations in countries like China: "If he [Western man], his children, or his grandchildren ever live under a system even remotely resembling ours or the Chinese, they will understand – it isn't too late."<sup>405</sup>

Certainly it is true that the human rights changes that ultimately come about in China will essentially result from the dynamic of China's own internal developments. This is true for any country, but probably even more so for China than for the Soviet Union or other countries, because of China's long isolation, its secrecy, its suspicion of foreigners, its pride in its own civilization – sometimes bordering on xenophobia – and the communist system it has chosen. At the same time, China's increased participation in the international political system and in economic, legal, and educational programs exposes it to the institutions and values of others and invites foreign influence and involvement. There is no longer a valid reason to believe that the Chinese leadership will not take into account what the outside world has to say. There are clearly sufficient numbers of Chinese within and outside the power structure attracted to the values and standards of the international human rights system.

At the very least, China's problems will become better known. In a poignant appeal, Soviet dissidents years ago urged their Chinese counterparts to establish lines of communication with the outside world in order to prevent the authorities "from crushing them without a trace in the remote labor camps and prisons."<sup>406</sup> They pointed out that international exposure of human rights violations was the only sure way to deter governments and bring about change. It is timely for the international community to make its views about China known, to seek out Chinese officials, to exert diplomatic pressure, and to expose violations publicly when needed. International human rights efforts will have a restraining influence on China's government, if not in the short term, then over time. They could prevent a return to the much harsher methods of the past.

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405. Andrei Sakharov, *My Country and the World*, (New York: Alfred A. Knopf, Inc., 1975), 89–90. For Sakharov's appeal for Wei Jingsheng, see *Freedom Appeals* 3 (January-February 1980): 18.

406. "Letter to the Editors of Explorations," *Freedom Appeals* 3 (January-February 1980): 19–20.

