Moral Pressure: American Democracy and Chinese Human Rights

A dissertation submitted in partial satisfaction of the requirements for the degree Doctor of Philosophy

in

Sociology

by

Stephanie Tze-Hua Chan

Committee in charge:

Professor Richard Madsen, Chair
Professor John Evans
Professor Daniel Hallin
Professor Susan Shirk
Professor John Skrentny

2011
The Dissertation of Stephanie Tze-Hua Chan is approved, and it is acceptable in quality and form for publication on microfilm and electronically:

_______________________________________________________

_______________________________________________________

_______________________________________________________

_______________________________________________________

(Chair)

University of California, San Diego

2011
To my parents
“Then you will understand what is right, just, and fair, and you will find the right way to go. For wisdom will enter your heart, and knowledge will fill you with joy.”

Proverbs 2:9-10
TABLE OF CONTENTS

Signature Page ................................................................. iii
Dedication ........................................................................ iv
Epigraph ........................................................................... v
Table of Contents ............................................................. vi
List of Tables ....................................................................... vii
List of Graphs ..................................................................... viii
Acknowledgements ......................................................... ix
Vita .................................................................................. xi
Abstract ........................................................................... xii
Chapter 1  Introduction ..................................................... 1
Chapter 2  Studying Public Deliberation: Theory and Methods .......... 42
Chapter 3  Principle vs. Profit: Sacred Deliberation and Absolutist Reasoning ... 80
Chapter 4  What the Chinese People Want: Sacred Deliberation and Moral Credibility ........................................ 142
Chapter 5  Principle and Profit: The Search for a Cheaper Sanction .......... 201
Chapter 6  A New Conversation: Depolarized Deliberation and New Methods of Human Rights Promotion ........................................ 263
Chapter 7  Conclusion ......................................................... 310
References ........................................................................ 325
LIST OF TABLES

Table 1.1: Doxey’s “Typology of Non-Violent Sanctions” (1996) ................. 37

Table 1.2: Re-Analysis of Hufbauer, Schott, and Elliot’s Data ....................... 39

Table 2.1: Weaknesses of Existing Theoretical Perspectives on Policymaking … 74

Table 2.2: Congressional Hearings on U.S. Human Rights Policy toward China 75

Table 2.3: Newspaper Articles on Human Rights in China .......................... 79

Table 5.1: U.S. Foreign Policy Tools .......................................................... 260

Table 7.1: Summary of Findings on Democratic Deliberation ..................... 324
LIST OF GRAPHS

Graph 5.1: Newspaper Articles on Human Rights in China by Year .............. 309
ACKNOWLEDGEMENTS

I gratefully acknowledge all those who have offered their support and encouragement throughout graduate school and the dissertation process. First, I must thank my advisor, Richard Madsen, for encouraging me to forge my own research path and for patiently waiting for this to happen, for inspiring me to pursue scholarship that makes a difference, and for faithfully reading many lackluster chapter and dissertation drafts. You have been an amazing mentor to me in both sociology and life.

John Skrentny and John Evans deserve special thanks for their dissertation “interventions.” John S., thank you for telling me to write the book I want to read, for pushing me to make this work sociologically-interesting, and for teaching me the beauty of comparison. John E., thank you for imparting so much practical wisdom in such memorable ways and for encouraging me to get things out the door. Dan Hallin and Susan Shirk have provided valuable input from the creation of the prospectus to the final dissertation. Richard Biernacki, Jeff Haydu, April Linton, and Kwai Ng have also been great mentors throughout my graduate studies.

The UCSD Sociology Department generously provided some of the funding that made this research possible.

To my colleagues at UCSD, I have been lucky to be in the company of such great friends and scholars. Special thanks to “the ocelots”—Michael Evans and Lisa Nunn—for your camaraderie at the zoo and in the trenches. Caroline Lee and Seiko Matsuzawa have provided great advice. Thank you both for taking me under your wings. Julie Lee has been such a dedicated companion in the dissertation journey, from our early days at Peet’s coffee to the weekly accountability. Rachel Jacob-
Almeida, Eric Van Rite, Kevin Moseby, Brian Lindseth, Tom Waidzunas, Gordon Chang, Alper Yalcinkaya, Jas He, Denis Kim, Kris Kohler, Cindy Schairer, Marie Murphy, Se-Hyun Cho, Melody Chiong, Priscilla Lee, Erin Cech and Tricia Wang, all of you have made grad school not only bearable but enjoyable.

Thank you to the Chan and Lin families for cheering me on all the way to the finish line. I am grateful for your loving support. I would like to specially acknowledge my parents, Kenneth and Linda Chan. Dad, thank you for sparking my interest in China and for always believing in me. Mom, I cannot even begin to thank you enough for your unwavering emotional support and for being such a wonderful guide in life and study. You have the most amazing mind and heart.

Harbor Presbyterian Church, you have been such a wonderful family to me in San Diego. Thank you for nourishing me through your fellowship and teaching me about grace.

My deepest appreciation goes to Dennis Lin. You have enriched my life in so many ways. Thank you for being by my side through the many ups and downs of dissertation research and writing, for being willing to entertain late-night conversations about sociology, and for keeping me grounded in what’s important. Sawyer Lin, thanks for putting a smile on my face through the stressful times.

Finally, praise be to God for His love, justice, and mercy. None of this would have been possible without Him.
VITA

2001  Bachelor of Arts, University of California, Los Angeles
2002  Master of Arts, Stanford University
2011  Doctor of Philosophy, University of California San Diego

PUBLICATIONS


ABSTRACT OF THE DISSERTATION

Moral Pressure: American Democracy and Chinese Human Rights

by

Stephanie Tze-Hua Chan

Doctor of Philosophy in Sociology

University of California, San Diego, 2011

Professor Richard Madsen, Chair

In this study, I examine why U.S. policymakers and the American public continue to advocate a sanctions approach to international human rights promotion when this method of international influence is both highly ineffective and ethically questionable. I specifically explore this puzzle in the context of public and Congressional deliberations over U.S. human rights policy toward China from 1989 to 2009. Using qualitative discourse analysis of newspaper articles and Congressional
hearings and historical analysis of the changes and continuities in U.S. human rights policy toward China over the course of 20 years, I analyze how participants justified their policy stances, whether or not these justifications were considered socially acceptable or unacceptable, and how this shaped what policy options were possible. I argue that advocacy for the use of sanctions for human rights promotion persists, in large part, due to the conditions of public deliberation. The findings reveal that sanctions advocacy thrives in a specific type of meaning context that constrains democratic deliberation—a sacred, morally polarized context. This meaning context made absolutist reasoning and authority bias acceptable, therefore, nullifying criticisms that sanctions are ineffective and unethical. In this morally polarized setting, the force of the better argument did not necessarily prevail, as deliberative democratic theorists would hope. It was not until Congressional deliberation shifted to a depolarized setting that the conditions became ripe for deliberation about other potentially more effective and more ethical approaches to human rights promotion. While calculations of economic and political costliness did constrain the use of some types of sanctions, they did not undermine the underlying sanctions logic toward human rights promotion.
CHAPTER 1
INTRODUCTION

There are … three tools in foreign policy: diplomacy, sanctions, and war. Take away sanctions and how can the United States deal with terrorists, proliferators, and genocidal dictators. Our options would be empty talk or sending in the marines. Without sanctions, the United States would be virtually powerless to influence events absent war. Sanctions may not be perfect and they are not always the answer, but they are often the only weapon.

-- Jesse Helms, Foreign Affairs (1999)

Dear Congressman Wolf, I believe it is dangerous to grant the Most Favored Nation status to China while mass scale violations of human rights are taking place there … The United States possess[es] only one real mechanism for protection of human rights in other countries—granting or not granting such status.

-- Letter from human rights activist Elena Bonner to Congressman Frank Wolf (1996)

Why do bad policy ideas persist? When are bad policy ideas challenged and better policy ideas discussed? I investigate these questions by examining one problematic policy idea in particular—the use of unilateral sanctions for promoting international human rights. A unilateral sanction consists of one country using a threat of punishment or promise of reward to get another country to comply with its wishes. In the United States, human rights advocates inside and outside of government have argued that sanctions are the central, if not only, tool for promoting human rights abroad. This persistent support for sanctions as a tool of human rights promotion is puzzling in two ways. First, most scholars agree that sanctions do not work and can even lead to more human rights violations in the target country. Second, some scholars have argued that they are unethical because they cause severe harm to innocent civilians. Why do these strong criticisms of a sanctions approach to human rights promotion have no effect in deterring sanctions advocacy? Between 2002 and 2006, the U.S. imposed 125 new unilateral sanctions against 47 states (Malloy 2006). At a
time when sanctions seem to be the default tool for dealing with “deviant” nations, we need more careful analysis of what makes this ineffective and ethically questionable approach seem like the best one.

To understand how these criticisms of sanctions are muted, I examine the talk surrounding this policy idea. If policymakers are confronted by these criticisms in debates, how do they handle them? How can they still justify sanctions? What deliberative conditions make continued support for sanctions possible or make discussions of alternatives possible? The focus of this study is on the policy-talking part of policy-making. Moreover, it is about how policy is discussed in public rather than how it is discussed behind closed doors. This is because I am interested in how public deliberation works and whether or not and how it influences policy decisions. Some might argue that public and Congressional deliberations are merely “cheap talk,” that the President and his advisors simply decide to use sanctions regardless of what the public or Congress says. However, I will demonstrate that public talk is not just cheap talk. In fact, I will show that it is a critical factor behind the persistence of sanctions advocacy for human rights promotion.

The context in which I examine the puzzling support for sanctions is public deliberation over U.S. human rights policy toward China over the course of 20 years, 1989-2009. For those of us who lived through it, it is impossible to erase the images of slain and bloody students laying in Tiananmen Square from our minds. Seeing the Chinese government crush young people calling for democracy crushed many Americans (Madsen 1995), and the continued attempts of the Chinese government to politically repress its people angers us. For 20 years, the U.S. government has
grappled with how to respond to a China that while producing many of the goods we consume, buying a lot of our debt, and providing many meaningful cultural exchanges still burns the American moral conscience with its repression of its people’s political rights. This is a story about this public grappling and its enabling of a sanctions approach to human rights promotion.

Over the span of these 20 years, the U.S. has both started and stopped using sanctions and has also used a variety of types of sanctions toward China for human rights purposes. This provides an excellent environment to research how sanctions have been discussed and the implications for policy. In 1989, President George H.W. Bush imposed sanctions on China in response to the Tiananmen Massacre. The 1990s were dominated by the annual debate over whether or not to condition the renewal of China’s most-favored-nation (MFN) trade status upon human rights improvements. From 1990 to 2004, the mainstay of U.S. human rights promotion efforts toward China was symbolic sanctions in the form of sponsoring resolutions against China in the U.N. Commission on Human Rights (UNCHR). From 1990-2009, there were 13 rounds of sporadic and mysterious human rights “dialogues” between the U.S. and China. Beginning in 2002, the U.S. began to increase support for civil society and rule of law programs in China. I will show how these contours have been influenced by public deliberation.

This research not only helps to resolve a long-standing puzzle in international politics, it also contributes to a greater understanding of deliberative democracy in practice. According to deliberative democratic theorists the ability to peacefully talk about and resolve issues upon which we disagree is a hallmark of democracy—or
should be. This study will expand our understanding of the conditions under which deliberative democratic ideals may be realized and how these conditions of deliberation can shape policy possibilities. Despite a recent proliferation of empirical studies on public deliberation, there has been surprisingly little research on what the American founders designed to be “the nation’s premier deliberative institution”—Congress (Bessette 1994: 211). Congress was designed to talk about policy. They spend around 100 days a year doing this in Washington, but we do not know much about this talk. We also lack an understanding of how meaning contexts influence public deliberation. Cultural sociologists have long been concerned with how meaning influences action and how meaning is used to justify action, however, they have tended to study meaning-making out of context, outside of actual, real-life social interaction (Eliasoph and Lichterman 2003). Tetlock and his colleagues (2000) write, “People who function like intuitive scientists or economists in one setting can be quickly transformed into intuitive moralists-theologians when provoked by assaults on sacred values” (865-67). How does deliberation look different when the deliberators perceive the decision to be sacred versus profane? My study fills these gaps in our sociological understanding of public deliberation.

Using qualitative discourse analysis of public deliberation in both newspapers and Congressional hearings and historical analysis of the contours of U.S. human rights policy toward China over the course of 20 years (1989-2009), I explore how participants justified their policy stances, whether or not these justifications were considered socially acceptable or unacceptable, and how this shaped what policy options were possible. Based on this analysis, I argue that advocacy for the use of
ineffective and ethically questionable sanctions for human rights promotion persists, in large part, due to the conditions of public deliberation. Sanctions advocacy thrives in a specific type of meaning context that constrains democratic deliberation—a sacred context. A morally polarized meaning context made absolutist reasoning and authority bias acceptable, therefore, nullifying criticisms that sanctions are ineffective and unethical. It was not until Congressional deliberation shifted to a depolarized setting that there was deliberation about other potentially more effective and more ethical approaches to human rights promotion. This raises the question of whether or not it is possible to simultaneously have both sacred and constructive deliberation. Even in the depolarized setting, there were still limited deliberative resources for deeper reflection on effectiveness and morality, raising the additional question of what can facilitate a deeper democratic conversation.

In this introduction, I discuss the use of sanctions for human rights promotion. I first explain why the case of U.S. human rights promotion in China is a good conduit for exploring the sanctions paradoxes and provide some background on human rights abuses in China. Then, I provide an overview of the content of U.S. human rights policy toward China from 1989-2009 and background on the use of sanctions in foreign policy. Next, I give a detailed explanation of the paradoxes surrounding the persistence of sanctions use for human rights purposes: 1) their continued use despite their ineffectiveness and 2) their continued use despite moral dilemmas. Finally, I outline the argument of my dissertation and preview the chapters to follow.

PROMOTING HUMAN RIGHTS IN CHINA

WHY CHINA?
Aside from substantive reasons for studying China, like the centrality of human rights in U.S.-China relations and the rising prominence of this relationship, China represents an important case theoretically. There is widespread agreement that attempts by the U.S. and the international community to improve respect for human rights in China have failed (Kent 2007; Vogel 1997). Indeed, China has become the exemplar of a “human rights holdout” (Cardenas 2007; Keck and Sikkink 1998). Keck and Sikkink (1998) state that China represents the “negative substantiation” for the effect of transnational advocacy networks in the area of human rights. They determine that the reasons for this failure are “a weak, repressed, and divided domestic movement, combined with little possibility for leverage politics” (Keck and Sikkink 1998: 118). Both findings are noteworthy, but I want to focus on the “little possibility for leverage politics” aspect of failed transnational advocacy in China. That “little possibility for leverage politics” speaks to a power relationship, and it implies that effective transnational advocacy can only occur in instances of a power imbalance between the country or group of countries that seek to change or influence the practices of another country. This poses the question of whether or not there are methods available to U.S. and world actors that do not depend on an unequal relationship, that are not “effective” simply because one country has the power to harm the other.

China represents a unique case in which to understand the dynamics of power involved in solving human rights problems internationally and transnationally. It is one of the few countries that is both the target of much pressure for human rights change that is also powerful enough to say “no” to the usual methods employed by the
U.S. and the international community to induce change. It is not simply theoretically interesting to know the potential for encouraging change among countries that are more so “equals,” it also speaks to the potential of developing methods of promoting change that match the message being promoted. When methods based on inequality are eliminated, what remains in the U.S. repertoire of influence and intervention? The case of China provides insight into whether the U.S. has methods of human rights promotion at its disposal that do not rely on international inequality.

**CHINA’S RECORD OF HUMAN RIGHTS VIOLATIONS**

By most measures, China’s record of human rights violations is terrible. The State Department produces an annual country report on human rights practices in China. The enduring concerns within the State Department report have been the following human rights violations:

- political and other extrajudicial killing;
- disappearance;
- torture and other cruel, inhuman, or degrading treatment or punishment;
- arbitrary arrest, detention, or exile;
- denial of fair public trial;
- arbitrary interference with privacy, family, home, or correspondence;
- lack of freedom of speech, press, assembly and association, religion, and movement;
- lack of respect for the right of citizens to change their government;
- discrimination based on sex, age, disability, nationality, race, and ethnicity;
- lack of the right of association and to organize and bargain collectively for workers;
- forced or compulsory labor;
- child labor;
- unacceptable work conditions;
- lack of respect for the integrity of the person, freedom of religion and economic development and protection of cultural heritage in Tibet (U.S. Dept. of State 2009).

According to Nathan (1994), the main foreign human rights concerns with China are political imprisonment, religious repression, problems with criminal procedure, capital punishment, repression in Tibet, coercive population planning, and prison maltreatment and labor camp exports. Capital punishment, prisoner-made exports, and non-coercive population planning are not technically violations of international law (Nathan 1994). Nathan (1994) remarks that the international community has “focused on issues that [reflect] its preconceptions and concerns, the information available to it, and the political processes by which governments and human rights organizations mobilized their constituencies” (635). Most of the information on human rights problems in China emerges from human rights organizations like Amnesty International and Human Rights Watch. In fact, Nathan extensively cites these two organizations in his list of human rights concerns. The human rights problem in China that garners the most attention in The New York Times is the treatment of political and religious dissidents in China. Of the 885 articles on human rights in China from 1993 to 2007 in The New York Times which I coded, 209
(23.6 percent) of the articles were primarily about dissidents. No other issue generated nearly as much discourse. The issue that garnered the second greatest amount of discourse was religious persecution, which was the primary content of 53 (6.0 percent) of the articles.

**U.S. HUMAN RIGHTS POLICY TOWARD CHINA, 1989-2008**

**1989: THE TIANANMEN SANCTIONS**

On June 4, 1989, the Chinese government used martial law to suppress pro-democracy demonstrations in Tiananmen Square. It was this incident that spurred both international attention and action toward China’s human rights problems (Baker 2002; Foot 2000; Kent 2001). Despite renewed attention to international human rights in the 1970s, China remained exceptionally absent from the U.S. human rights radar until June 4, 1989 despite the fact that there were major human rights problems there (Shirk 1977-78). With the U.S. leading the way, liberal states responded to the crackdown in Tiananmen with a flurry of sanctions. On June 5, 1989, the U.S. started with military sanctions, suspending all sales of weapons and exchanges between military leaders. On June 20, 1989, the U.S. expanded its sanctions on China to include a ban on diplomatic exchanges above the level of assistant secretary, suspending the implementation of the Sino-American agreement on nuclear cooperation, and supporting the postponement of any World Bank and Asian Development Bank loans to China. Western allies and Japan followed suit, mirroring the sanctions imposed by the U.S. (Baker 2002; Foot 2000).

The immediate reaction of liberal states to Tiananmen was to impose sanctions on China as a human rights violator. The public and governmental debates that ensued
were not debates over whether or not sanctions were the appropriate means to address what happened in Tiananmen Square but over how harsh the sanctions toward China should be and how long they should last. President Bush did not have to justify the use of sanctions in response to the crackdown. Instead, he had to justify his use of relatively mild sanctions to a public, press, and legislators who were asking for harsher penalties for Beijing’s repression.


In the immediate aftermath of Tiananmen, there was not really a need to justify sanctions because nobody, save for exceptions like Henry Kissinger, opposed them. Yet, in the years following Tiananmen, when Congress proposed that sanctions toward China take the form of revoking its most-favored-nation (MFN) trade status, the use of sanctions became a matter of heated debate. Compelled by what they saw as President Bush’s weak response to the Tiananmen Square crackdown and the lack of human rights improvement in China, some members of Congress began to propose the use of economic sanctions toward China in the form of making the renewal of China’s MFN status contingent upon improvements in human rights. MFN trade status designates the normal trading terms, including low tariffs, which most countries enjoy with the U.S. Under the Jackson-Vanik Amendment to the Trade Act of 1974, the President is required to certify that countries with non-market economies allow for freedom of emigration in order to renew their MFN status.

Although the renewal of China’s MFN status was dependent on an executive order, Congress had the ability to disapprove of the president’s action through a joint resolution of Congress (Pregelj 2005: 7). The president had the power to veto these
Congressional resolutions, and the Congress, in turn, could overturn the veto with a two-thirds majority vote in both houses of Congress. From 1980—the year in which China’s MFN status was restored after having been suspended in 1951—until 1990 there was no debate as to whether or not to renew China’s MFN status. It was virtually automatic. From 1990 to 2001, whether or not to renew China’s MFN status became a matter of annual debate.

From 1989 until 2001, the President always renewed China’s MFN/NTR status.¹ From 1990 to 2000, the House voted every year on joint resolutions disapproving the renewal of China’s MFN/NTR status, and in 1990, 1991, and 1992 voted in favor of disapproving China’s MFN status.² The Senate, however, never voted on a joint resolution to disapprove of China’s MFN status, although they did vote in favor of placing human rights conditions on the renewal of China’s MFN status in 1991 and 1992. Congressional action in 1991 and 1992 was vetoed by President Bush. When President Clinton came to office, he pledged to make China’s MFN renewal contingent on improvement in human rights, however, in 1994 he decided to de-link MFN and human rights and renewed China’s MFN trade status every year until the status became permanent. In 2000, Congress approved and President Clinton signed a bill which would grant permanent normal trade relations (PNTR) to China when it joined the World Trade Organization (WTO) in 2001. This ended the annual debate over linking China’s MFN status to human rights.


¹ Most Favored Nation (MFN) status was renamed “Normal Trade Relations” (NTR) in 1998.
Both during and after the MFN debates, the U.S. sponsored resolutions against China in the U.N. Commission on Human Rights (UNCHR). Because the primary intended effect of this type of sanction is to damage China’s international reputation rather than its material well-being for the purpose of human rights improvement, I categorize these resolutions as *symbolic sanctions*. Wachman (2001) explains, “the UN Commission on Human Rights and its Sub-Committee on Prevention of Discrimination and Protection of Minorities issues resolutions to ‘call international attention to any state’s domestic human rights abuses and submit that state to a process of ‘reintegrative shaming’’” (261). These resolutions require the sponsorship of member states. The U.S. sponsored a resolution every year from 1990 to 2004, with the exception of 1991, 1998, 2002, and 2003. In 1991, observers speculated that the Bush Administration did not pursue a resolution because they needed China’s support for a Persian Gulf War resolution. In 1998, President Clinton justified dropping the annual resolution due to “improvements” in human rights. Those “improvements” included “the release of several prominent political prisoners” and an “announcement by China that it would sign the International Covenant on Civil and Political Rights.” The U.S. did not have the ability to sponsor a resolution in 2002 since it lost its UNCHR membership. The decision in 2003 was said to rest on China’s pledges “to allow the International Committee of the Red Cross to open an office in Beijing, to declare that minors are entitled to religious instruction and to discuss parole reviews

---

for political prisoners jailed under outdated laws,” pledges which were later broken.\(^5\)

In 2006, the UNCHR was replaced by the U.N. Human Rights Council (UNHRC) due to claims that the UNCHR was no longer a credible human rights monitoring body given that it included major human rights abusers. There was not a U.S. representative on the Council until 2009.

**1999-2008: **Civil Society and Rule of Law Programs

As efforts to condition China’s MFN status upon human rights waned in the late 1990s, a new type of human rights promotion effort began to emerge—investment in civil society and rule of law programs. In 1999, Congress began authorizing U.S. assistance to NGOs participating in democratic development in China (Lum 2007). The USAID and the State Department have established and funded their own programs in China and Tibet since 2000 (Lum 2007). However, the amount of U.S. assistance for these types of programs has been small relative to the E.U. and the Ford Foundation\(^6\). Whereas the U.S. authorized $110 million from 1999-2006 for these programs, the E.U. gave $235 million from 2002-2006 and the Ford Foundation gave $220 million in grants from 1988-2006 (Lum 2007; 2009). There are still limits to U.S. assistance in China due to sanctions that remain in place from 1989 (Lum 2007).

As part of the compromise to establish PNTR with China and to end the annual MFN debate, the U.S. Congress established the Congressional-Executive Commission on China (CECC) in October 2001. According to their website, the CECC was developed in response to the concerns of members of Congress that there would no

---


\(^6\) The Ford Foundation does not receive funding from the U.S. government (Lum 2007).
longer be “a legislative mechanism to examine and debate China’s human rights record every year,” thus, Representatives Sander Levin (D., Missouri) and Doug Bereuter (R., Nebraska) sponsored a bill to establish the CECC. Its purpose is “to monitor human rights and the development of the rule of law in China.” The CECC has the duty of compiling an annual progress report on human rights and the rule of law in China. Towards this end, it holds both formal hearings and informal issues roundtables. The consensus within the CECC was to make rule of law programs the central piece in U.S. human rights promotion efforts in China while also continuing pressure in the form of keeping a prisoner database and encouraging diplomatic efforts to press for the release of political prisoners.


Another component of U.S. human rights policy toward China has been sporadic bilateral “human rights dialogues.” According to Lum and Fischer (2010), the U.S.-China human rights dialogue was established in 1990. From 1990-2008, there were 13 rounds of meetings between U.S. and Chinese representatives to discuss human rights. The 13th was held in May 2008. These meetings have been highly subject to ebbs and flows in U.S.-China relations. For example, the dialogue was suspended in 2004 when the Bush administration sponsored a UNCHR resolution against China (Lum and Fischer 2009). Human rights activists are not convinced that these dialogues lead to concrete human rights progress in China. Overall, these

8 Ibid.
dialogues have been quite shrouded in secrecy, oftentimes escaping any significant press coverage.

SANCTIONS AS A TOOL OF FOREIGN POLICY

DEFINING SANCTIONS

Though there are a variety of definitions in the academic literature on sanctions in foreign policy, they all share the idea of sanctions as penalties for non-conformity to a set of standards. Doxey (1996) defines international sanctions as “penalties threatened or imposed as a declared consequence of the target’s failure to observe international standards or international obligations” (9). For Doxey it is important to distinguish between actions taken to defend agreed upon standards of acceptable behavior and actions taken to further the interests of one or more states, where sanctions represent the former. Galtung (1967) defines sanctions as “actions initiated by one or more international actors (the ‘senders’) against one or more others (the ‘receivers’) with either or both of two purposes: to punish the receivers by depriving them of some value and/or to make receivers comply with certain norms the senders deem important” (Galtung 1967: 379). Combining aspects of both of these definitions, I define sanctions as penalties that are threatened or imposed by one or more international actors (the senders) against one or more others (the targets) as a consequence of the target’s failure to comply with certain norms the senders deem important. Some scholars distinguish between negative and positive sanctions. For example, Baldwin (1971) defines positive sanctions as “actual or promised rewards” and negative sanctions as “actual or threatened punishments” (23). While this distinction can be useful in certain contexts, in my research I am specifically
concerned with negative sanctions since these are the only types that have been used against China in human rights policy. The scope of the sanctions I examine here includes any “non-violent” penalty (i.e. not military force) imposed to enforce obedience to international standards. Doxey (1996) provides a helpful catalog of typical sanctions measures, including diplomatic and political, cultural and communications, and economic measures (Table 2.1). Though military measures may serve a sanctioning function, when foreign policy scholars and practitioners speak of sanctions they are generally referring to non-violent forms of penalty which serve as an alternative to military measures.

**How Sanctions are Supposed to Work**

**The Instrumental Logic of Economic Sanctions**

When scholars discuss whether or not sanctions work, they are generally referring to the instrumental effectiveness of sanctions, or their effectiveness in altering the political behavior of the target. Lindsay (1986) identifies three possible instrumental goals of sanctions: compliance, subversion, and deterrence. Compliance refers to “forc[ing] the target to alter its behavior to conform with the initiator’s demands” (Lindsay 1986: 155). This works by way of “persuading the target government that the issues at stake are not worth they price” or “inducing popular pressure to force the government to concede” (Pape 1997: 94). Subversion refers to “remov[ing] the target’s leaders (leaving the political system intact) or overthrow[ing] the entire regime” (Lindsay 1986: 155). Weiss and his colleagues (1997) explain that, in theory, “the imposition of economic coercion will exercise sufficient ‘bite’ that citizens in the targeted country will exert political pressure to force either a change in
the behavior of the authorities or their removal altogether” (Weiss et al. 1997: 4). They describe this logic of “inflicting civilian pain in order to achieve political gain” as the “modus operandi of sanctions policy” (Weiss et al. 1997: 4). Deterrence refers to “dissuad[ing] the target from repeating the disputed action in the future” (Lindsay 1986: 155). Thus, the basic instrumental logic of economic sanctions is to hurt or threaten to hurt the target regime so badly that it will capitulate to the sender’s demands now and/or in the future or to hurt the target populace so badly that they will overthrow the regime. Only the former logic is evident in advocacy for U.S. sanctions use against China for human rights reasons.

Due to the requirement that the sender be able to hurt the target without hurting themselves too much, some argue that economic sanctions can only work instrumentally under very strict conditions. Galtung (1967) assesses that the ideal condition for the instrumental use of economic sanctions is toward “a small economic satellite of a major economic power” (385). He explains, “In such a case, perhaps seventy-five percent, or perhaps even ninety percent, of both exports and imports of the small country may be with the big country, yet this trade volume may still be less than one percent of the big country’s total trade” (Galtung 1967: 385).

To understand the logic of economic sanctions in foreign policy, it is important to understand their perception as an alternative to war in the foreign policy calculus. Pape (1997) claims, “Since World War I … economic sanctions have come to viewed as the liberal alternative to war. From crises involving the League of Nations before World War II to disputes involving the United Nations today, proponents typically argue that economic sanctions can often be as effective as military force and are more
humane” (90). When appealing for American support for the establishment of the League of Nations in 1919, President Woodrow Wilson described the sanctions that would form the “central machinery” of the league as an “economic, peaceful, silent, deadly remedy” that did not require the use of force. He explained, “It does not cost a life outside the nation boycotted, but it brings a pressure upon that nation which, in my judgment, no modern nation could resist.”

Not only do foreign policy scholars and practitioners typically contrast sanctions to war, they also contrast them with diplomacy, viewing sanctions as the middle ground between war and diplomacy. Writing in *Foreign Affairs*, Senator Jesse Helms (R., North Carolina), then chairman of the Senate Foreign Relations Committee, stated, “There are … three tools in foreign policy: diplomacy, sanctions, and war. Take away sanctions and how can the United States deal with terrorists, proliferators, and genocidal dictators? Our options would be empty talk or sending in the marines” (1999: 5). These three options are also repeated in foreign policy scholarship. Baldwin (1999/2000) states, “As instruments of statecraft, economic sanctions are alternatives to diplomacy and propaganda as well as military force” (92). Cortwright (2001) similarly reiterates the 3-option mantra and elaborates on why sanctions are such an appealing option:

> When nations respond to acts of aggression or gross violations of international norms, they have a variety of options before them to choose from—ranging from the use of military force to verbal protest. The use or threatened use of military force is often costly and risky, and nation-states are reluctant to employ such means except as a last resort in the most urgent and extreme circumstances. Yet mere remonstrance and diplomatic dialogue are often ineffective instruments of persuasion,

---

unless they are backed by coercive pressure. This is where economic sanctions and incentives assume importance. They serve as a middle ground between the use of force and verbal persuasion (115-116).

War is seen as doing too much and dialogue as doing too little.

**The Expressive Logic of Economic Sanctions**

Yet, there is also acknowledgement in the sanctions literature that they may serve “expressive” purposes as well. First, sanctions may serve to *signal disapproval*. Galtung (1967) writes, “When military action is impossible for one reason or another, and when doing nothing is seen as tantamount to complicity, then *something has to be done to express morality*, something that at least serves as a clear signal to everyone that what the receiving nation has done is disapproved of” (411). Similarly, Baldwin (1999/2000) states, “[I]f the principal alternative to economic sanctions is appearing to condone communism, racism, terrorism, or genocide, the observation that they are a ‘notoriously poor tool of statecraft’ may miss the point” (Baldwin 1999/2000: 84). Sanctions may also serve as international symbols which communicate messages to the members of the world community (Lindsay 1986).

Second, sanctions may serve to *demonstrate resolve*. Hufbauer et al. (2007) state that this is particularly true in the case of the U.S. They explain, “US presidents seemingly feel compelled to dramatize their opposition to foreign misdeeds. … In these cases, sanctions often are imposed because of the cost of inaction—in terms of lost confidence both at home and abroad in the ability or willingness of the United States to act—is seen as greater than the cost of the sanctions” (Hufbauer et al. 2007: 5). Lindsay (1986) also asserts that sanctions may serve as domestic symbols which “increase [the sender’s] domestic support or thwart internal criticism of its foreign
policies by acting decisively” (156). One of the specific sources of the internal pressure to demonstrate resolve may be interest groups. Kaempfer and Lowenberg (1988) propose a public choice approach to the study of why economic sanctions are employed. They argue that instead of the instrumental purposes of policymakers, the real goal of sanctions may be “to placate domestic pressure groups interested in expressing their disapproval of the practices of a foreign government” (790).

Third, as Galtung pointed out in his definition, sanctions may also serve to punish. Galtung (1967) suggests this goal is rooted in a need for emotional gratification “deriv[ed] from knowing (or believing) that the sinner gets his due” (380). Nossal (1989) also focuses on the retributive aspect of punishment. He writes, “[T]he harm is seen as the appropriate response of the community to someone who had the choice to act otherwise but chose to act wrongfully” (314).

Fourth, sanctions may reinforce boundaries. Stantchev (2009) argues that sanctions “may serve the purpose of underscoring a perceived fundamental … difference between the sender and the target, homogenizing and objectifying the target’s population, and solidifying a desired kind of self-awareness within the sender’s own population, hence serving as a tool of internal cohesion” (503). Addis (2003) similarly claims that sanctions “are also a process through which the sanctioning community (party) defines its identity through the act of disassociating itself from the target regime that it considers to be ‘the troublesome or the evil other’” (578).

THE INSTRUMENTAL/EXPRESSIVE LOGIC OF SYMBOLIC SANCTIONS
The literature on sanctions is largely dominated by discussions of economic sanctions, however, there is a growing body of literature that deals with symbolic sanctions, or threatening to inflict or inflicting harm on the target state’s reputation. The clearest articulation of the role of shame in improving a country’s human rights performance is embedded in Risse and Sikkink’s (1999) “spiral model” of human rights change. Shaming is one of the ways in which the international community can influence the practices of a norm-violating state. Risse and Sikkink (1999) explain: “Moral consciousness-raising by the international community often involves a process of ‘shaming.’ Norm-violating states are denounced as pariah states which do not belong to the community of civilized nations” (15). Shaming works if a government “feel[s] deeply offended, because they want to belong to the ‘civilized community’ of states” (15), and, thus, is compelled to change its behavior. The threat of being excluded from the international community is what leads to changed behavior. Keck and Sikkink (1998) state, “Network activists exert moral leverage on the assumption that governments value the good opinion of others, insofar as networks can demonstrate that a state is violating international obligations or is not living up to its own claims, they hope to jeopardize its credit enough to motivate a change in policy or behavior” (24).

While economic sanctions rest on a material threat, shaming rests on a symbolic threat—a threat to a countries’ international reputation and standing. Shaming is “not aimed at producing changing minds with logic, but on changing minds by isolating and embarrassing the target” (Risse and Sikkink 1999: 14). As Risse and Sikkink (1999) point out, this only works when the government actually
cares about its international reputation. They argue, “To the degree that a nation values its membership in an emerging community of liberal states, it will be more vulnerable to pressures than a state that does not value such membership” (Risse and Sikkink 1999: 24). If one does not value membership in a particular group, then shaming is irrelevant. Risse and Sikkink (1999) assert that the relevant community in the case of human rights shaming is “an emerging community of liberal states.” One of the questions this raises in the case of China is whether or not it claims an identity as a “liberal state.” If it does not, then this may undermine the logic of shaming.

Since shaming is essentially a symbolic form of sanctioning, the mechanisms by which it is supposed to work very much resemble the mechanisms purported in the case of material sanctions. Wachman (2001) explains how shaming is supposed to work to improve human rights:

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

- will threaten the legitimacy of the government and cause it to ameliorate the conditions that were seen, abroad, to be shameful so that the leadership can relieve its embarrassment and shore up its hold on power;
- will prompt a faction in government to recognise the cost to development goals of failing to reform in the human rights realm, wrestle with those within the regime who resist reform, and improve the protection of human rights, even while maintaining the political system;
- will inspire a popular uprising that will cause the collapse of the present system of government and the introduction of a democratic form that will enhance the protection of human rights (260).

Shaming is supposed to trigger a conciliatory response from the government, a desire for reform from a faction within the government, or a popular uprising which overthrows the rights-abusing government. Thus, the logic is similar to material
sanctions—hurt China or threaten to hurt the Chinese government’s reputation so much that it will change.

What is appealing about the use of symbolic as opposed to material sanctions is that they would seem to be less harmful to the general populace and are not dependent, in theory, on material inequality among nations. Symbolic sanctions could, theoretically, be more targeted toward the repressive regime, ruining their reputation, while still preserving the reputation of the general populace. Moreover, since they are more reliant on moral power than on economic power, they could be employed by countries of any economic standing that has a good moral standing in the international community. Unfortunately, scholarly evidence indicates that, in practice, this does not seem to work.

**THE SANCTIONS PARADOXES**

**THE CONTINUED USE OF INEFFECTIVE SANCTIONS**

Scholars have been puzzled by the persistent use of international sanctions despite their ineffectiveness. Baldwin (1999/2000) states that “[t]he basic paradox at the heart of the sanctions debate is that policy makers continue to use sanctions with increasing frequency, while scholars continue to deny the utility of such tools of foreign policy” (80). As early as the 1960s there were speculations that economic sanctions were not very effective at achieving foreign policy goals. Studying the case of Rhodesia, Galtung (1967) concluded that “the probable effectiveness of economic sanctions is, generally, negative” (409). Through first-hand interviews and observations of the Rhodesian situation, Galtung discovered that the targets found various ways to adapt to the adverse economic conditions that resulted from sanctions.
thus buffering their intended effect. Moreover, he found that rather than leading to political disintegration, the sanctions seemed to have the opposite effect of creating more political integration in response to the external attack, or a “rally around the flag” effect. In the 1970s, there was further solidification of the observation that economic sanctions did not work to achieve their stated goals even under varying conditions (Doxey 1971; Knorr 1975, 1977; Losman 1979; Renwick 1981).

By the early 1980s, the fact that economic sanctions did not work to change the conduct of regimes whose conduct was deemed transgressive was considered accepted wisdom. Speaking of a literature review conducted by Daoudi and Dajani (1983), Nossal (1989) writes that “the view that these measures are an ineffective tool of statecraft has become almost axiomatic” (301). In a 1980 article in Foreign Policy, Miller writes, “Much in recent history supports the popular assumption that while trade boycotts, embargoes, and other economic sanctions are legitimate alternatives to military action, they rarely work” (118). Miller cites the failure of the American trade boycott imposed on Cuba in the 1960s to stop the communist revolution and the failure of U.N. economic sanctions to bring down the white-supremacist regime in Rhodesia also in the 1960s as evidence of the common failure of economic sanctions. It was in this context that Hufbauer, Schott, and Elliot conducted their first systematic assessment of the effectiveness of sanctions, a work that became the most comprehensive work on sanctions effectiveness. Elliot (1998) recalls, “We began work on the first edition of Economic Sanctions Reconsidered (1985) in the early 1980s, in the wake of the Carter grain embargo and the Reagan pipeline sanctions, when the conventional wisdom was that sanctions never work. We were interested in
finding out, first, whether this was true, and, second, under what circumstances
economic leverage might be useful—not necessarily dominant—in achieving foreign
policy goals” (51).

In the various editions of their study (1985, 1990, 2007), Hufbauer, Schott, and
Elliot conclude that it is not true that sanctions never work. According to a calculated
success score which combines “the extent to which the policy result sought by the
sender country was in fact achieved and the contribution to success made by
sanctions” (49), they claim that sanctions have worked 34 percent of the time
(Hufbauer, Schott, and Elliot 2007: 158). In their econometric analysis, they find that
sanctions work best in cases with modest foreign policy goals, higher economic costs
to targets, targets that are democratic, prior cordial relations between the sender and
target, important trade links between the sender and target, and in cases prior to 1989.
Further analyzing Hufbauer, Schott, and Elliot’s cases, I found that when sanctions are
employed with one of the goals or the sole goal being to improve human rights, they
are even less effective. Out of the 40 cases in which the improvement of human rights
was one of the goals, according to Hufbauer, Schott, and Elliot’s own success score, 9
cases (23 percent) were “successful.” (See Table 1.2)

After the publication of the first and second editions of Hufbauer, Schott, and
Elliot’s sanctions study, Pape (1997) challenged their findings. Based on a re-analysis
of their data, he argued that they had overestimated the success rate of sanctions. He
claims, “The HSE study is seriously flawed. Practically none of the claimed 40

11 Their dataset includes 174 cases of economic sanctions applied for foreign policy goals from 1914-
2000.
successes of economic sanctions stands up to examination. Eighteen were actually settled by direct or indirect use of force; in 8 cases there is no evidence that the target made the demanded concessions; 6 do not qualify as instances of economic sanctions; and 3 are indeterminate. Of HSE’s 115 cases, only 5 are appropriately considered successes” (Pape 1997:93). Based on this re-evaluation, he concludes that the actual success rate of sanctions is less than 5 percent rather than the 34 percent that Hufbauer, Schott, and Elliot concluded. The main point of dissension between Pape and Hufbauer, Schott, and Elliot is whether or not economic sanctions should be considered successful if they are not used independently of military force. Though they dispute some of the facts and interpretations of facts, this is the main reason why their calculated success rates are so widely different. So it comes down to whether or not sanctions are being considered in conjunction with military force or not. Given that military force is almost never considered an option in human rights cases and given that military force was never a consideration in response to China’s human rights problems, I believe that Pape’s assessment is a more appropriate baseline for this study. While defending her and her colleagues’ study, Elliot (1998) states even of their more optimistic findings: “Judged against a realistic standard, it is not true that sanctions have never worked. It is true that unilateral sanctions as imposed by the United States in recent years have only rarely worked, with just 5 of 39 unilateral U.S. sanctions achieving any success at all between 1970 and 1990. It is also true that economic sanctions used independently of other policy tools typically achieve only relatively modest and limited goals” (58). In Hufbauer, Schott, and Elliot’s later
econometric analysis (2007), they find that even international cooperation is not a statistically significant contributor to sanction success.

Some scholars have also found that in addition to not being effective, sanctions may actually lead to increased repression. Peksen’s (2009) analysis of time-series and cross-sectional data from 1981-2000 reveals that threatened and applied economic sanctions have had negative effects on human rights. He concludes that “economic sanctions inadvertently cause further deterioration of human rights conditions in target countries” (Peksen 2009: 74). Peksen (2009) measures the effect on human rights using a physical integrity index (which includes four variables: extrajudicial killings, disappearances, political imprisonment, and torture) and the Political Terror Scales (PTS) which also measures physical integrity. Wood’s study of the effect of sanctions (2008) corroborates these findings. He also uses the PTS to measure the effect of economic sanctions. Specifically in the case of America’s threats to respond to China’s human rights violations with economic sanctions from 1989 to 1995, Drury and Li’s analysis (2006) demonstrates that “[sanction] threats were not only ineffective but also counterproductive” (321). They report that “[a]ctual repression levels were unaffected by all of Washington’s gyrations, while accommodations decreased as the threats become more intense” (Drury and Li 2006: 321). They measure the effect of sanctions on human rights using data on the daily level of repression, accommodations, and unrest in China collected by Drury and Olson (2001). Indicators of repression included “demonstrations met by police violence, armed attacks by the state, imposing censorship or other political restrictions, political arrests, political executions, and the imposition of martial law”; indicators of
accommodation included “relaxing censorship, martial law, or other political restrictions, releasing political prisoners, and granting amnesty”; and indicators of domestic political unrest included events like strikes, protests and bombings (Drury and Li 2006: 318).

Some scholars point to an inherently flawed logic in sanctions use for producing long term and deeper change. Incentive methods prove to be better for producing short-term and shallow change rather than the long-term and more fundamental changes that might be required for changing human rights beliefs and practices. Kohn (1993) claims that “reinforcements do not generally alter the attitudes and emotional commitments that underlie our behaviors” (41). Not only do they fail to produce deeper changes, they also fail to properly address problems with complex causes. Stone (2002) writes, “When a social problem is rooted in a complex organizational system, a web of institutional patterns and practices, or a long-standing historical pattern of social and political relationships, inducements applied by one set of narrow actors to another are unlikely to have a significant impact” (271).

It is not only material sanctions that tend to be ineffective and counterproductive, scholars have also found that symbolic sanctioning in the form of shaming tends to be ineffective and counterproductive as well. While shaming is theoretically appealing because it does not rely on material inequality to coerce less powerful nations, it has proven to be quite ineffective. Franklin (2008) examines the impact of human rights criticism on political repression in Latin America from 1981 to 1995, specifically Argentina, Brazil, Chile, Guatemala, Mexico, Nicaragua, and Venezuela. His quantitative study reveals that there was actually a strong positive
relationship between human rights criticism and the magnitude of political repression. He concludes that this is not because human rights criticism causes greater political repression, but rather that more repressive countries receive more human rights criticism. However, the direction of the causal arrow is not clear. Shaming tends to be effective in reducing repression when the target state is highly dependent on foreign aid and investment, however, even in these cases, the effects of criticism significantly disappear after one month. Finally, he finds that criticism coming from NGOs, religious groups, and governments is more effective than the criticism coming from inter-governmental organizations. Wachman (2001), who specifically examines the response of the Chinese government to shaming since 1989, concludes that “shaming may not be a productive way of encouraging systemic changes that promote human rights” (259-260). Rather than resulting in greater compliance with human rights norms, Wachman finds that the Chinese government has responded to shaming efforts with “indignation and defiance” (260).

Are policymakers simply unaware of these scholarly findings? While it is rare for a policymaker to cite specific scholarly findings in Congressional debate, policymakers do appear to be aware of the general conclusion of these studies that sanctions have been largely ineffective. As we will see in the analysis, the degree to which this matters to policymakers varies. Policymakers reveal a variety of strategies for circumventing the historical record of sanction ineffectiveness.

**The Moral Dilemmas of Sanctions Use**

Not only do participants in the human rights policy debates continue to advocate sanctions when they have historically proven to be ineffective, they continue
to advocate sanctions in the face of moral objections to sanctions use. In fact, many argue that sanctions should be used because they are a humane alternative to war. Pape (1997) states that “proponents [of economic sanctions] typically argue that economic sanctions can often be as effective as military force and are more humane” (90). However, many have argued that economic sanctions inflict enormous harm on innocent civilians. Pape (1997) cites disturbing statistics that “as many as 567,000 Iraqi children may have died since the end of the Persian Gulf War because of economic sanctions imposed by the UN Security Council,” a figure that is considerably higher than the reported 40,000 military and 5,000 civilian deaths during the war itself” (110). Wood (2008) provides an excellent summary of the literature on the harmful effects of sanctions to civilians. He writes:

[T]hey have failed as a ‘peaceful’ alternative to armed conflict because they often generate significant collateral damage and impose severe costs on the target state’s population (e.g., Bhooutros-Ghali 1995). These costs include increased unemployment, declining GNP, capital flight, lost foreign investment, reduced bilateral trade (Hufbauer and Oegg; Hufbauer, Schott and Elliot 1990a; Hufbauer et al. 1997), increased corruption, drug and arms smuggling, and illegal trade syndicates (Andreas 2005; Heine-Ellison 2001; Joyner 2003), deteriorating public health standards (Ali and Shah 2000; Garfield 2002; Garfield, Devin, and Fausey 1995; World Health Organization 1996), and other humanitarian costs (Cortwright and Lopez 2000, 2002; Crawford 1997; Faris 1997; Hoskins 1997; Weiss 1999) (490).

The civilian costs of war are questionable in light of multiple ethical frameworks. Gordon (1999) assesses the ethics of sanctions using three ethical frameworks, just war doctrine, deontological ethics, and utilitarianism, and concludes that sanctions violate the ethical requirements of all of these frameworks. She argues:

[S]anctions are inconsistent with the principle of discrimination from just war doctrine; sanctions reduce individuals to nothing more than
means to an end by using the suffering of innocents as a means of persuasion, thereby violating the Kantian principle that human beings are ‘ends in themselves’; and sanctions are unacceptable from a utilitarian perspective because their economic effectiveness necessarily entails considerable human damage, while their likelihood of achieving political objectives is low (Gordon 1999).

Not only do sanctions prove to be problematic in terms of the noncombatant immunity clause of just war doctrine, Winkler (1999) claims that just war doctrine also raises questions of right intent, rendering sanctions pursued without clear purposes, for symbolic goals, and out of national self-interest ethically questionable (144). To my knowledge, there has been no research done on the humanitarian implications of symbolic sanctions.

Not only have scholars questioned whether sanctions are ethical on the grounds that they cause great civilian pain, some have questioned the inequality inherent in a sanctions logic. Keck and Sikkink (1998) describe the use of a sanctions logic in promoting human rights in their landmark study of transnational advocacy networks. They explain, “The human rights issue became negotiable because governments or financial institutions connected human rights practices to military and economic aid, or to bilateral diplomatic relations. In the United States, human rights groups got leverage by providing policymakers with information that convinced them to cut off military and economic aid” (Keck and Sikkink 1998: 23). What is troubling about this strategy of “leverage politics” for human rights promotion is that it necessitates a relationship of inequality—in this case, one nation being dependent on another for aid. Keck and Sikkink (1998) write, “Target actors must be vulnerable to material incentives or to sanctions from outside actors, or they must be sensitive to pressure
because of gaps between stated commitments and practice. Vulnerability arises both from the availability of leverage and the target’s sensitivity to leverage; if either is missing, a campaign may fail” (29). In other words, human rights promotion efforts are “successful” when they are able to capitalize on the inequalities between the human rights-promoting nation and the human rights-violating nation. “Leverage politics,” as the metaphor implies, relies on the use of force or coercion to achieve a particular end.

While for Keck and Sikkink (1998) this reliance on inequality to promote human rights seems unproblematic, for other scholars it is more questionable. For some, the problem with this scenario is that the lack of impunity that accompanies the use of sanctions by economically strong nations upon economically weak nations results in less ethical deliberation than in cases that require the sending nation to make sacrifices, like risking soldier’s lives (Winkler 1999). Gordon (1999) argues that the danger of a weapon that is only available for the use of the strong against the weak is the opportunistic use of sanctions by powerful nations. In other words, there is less of a check on intentions when there is little concern about cost.

It is puzzling that human rights activists, the chief proponents of sanctions, continue to advocate their use in light of these critiques of sanctions as inhumane. Why would human rights activists fight for sanctions when they are not only ineffective but also arguably unethical? For human rights activists, do the ends justify the means?

**OVERVIEW OF ARGUMENT + CHAPTER SUMMARY**
As evident in existing literature, there are powerful currents that should impede the use of sanctions for human rights purposes. They have a track record of being ineffective and are not designed to produce long-term change. Therefore, they are a poor choice for policymakers who are calculating the best means to achieve human rights improvements. They also have a track record of being inhumane causing high civilian costs, including lives, unemployment, declining GNP, capital flight, increased corruption, smuggling and illegal trade, and deteriorating health standards. Moreover, they rest on a logic that seems inimical to liberal ends, necessitating a relationship of inequality to produce greater equality, the use of a dehumanizing method to bring greater respect for the individual. Therefore, they are not only a poor choice for rational policymakers, they are also a poor choice for human rights activists who would seem to be driven by a less instrumentally-rational calculus. What sustains this policy idea in the midst of these powerful countercurrents?

A primary weakness of existing explanations is that they fail to take into account the mediating effects of public deliberation. That is, they fail to examine how public accountability might affect how power, institutions, rationality, interest groups, or American values and identity affect policymaking in practice. Policy is not made in a social vacuum. Policy decisions must be publically justified. Therefore, in order to understand what factors actually animate policymaking, we need to look at who is advocating coercive methods and why. My dissertation contributes to a more complete understanding of the coercive nature of U.S. human rights policy toward China by examining the micro-level social and cultural dynamics of the public and policymaking debates. Who can speak credibly for human rights? Who counts as a
human rights expert? What symbolic associations are attached to sanctions? How is human rights success defined and assessed? These are the types of questions I will address in the pages to come. Chapter 2 provides a detailed discussion of my theoretical framework, theoretical contribution, and my data and methods.

In Chapters 3 and 4, I examine how the sacred setting of public and Congressional deliberations enabled sanctions advocacy. The main question I explore is why governmental and non-governmental human rights advocates supported sanctions in the context of the debates over whether to use the revocation of China’s MFN trade status as an economic sanction for human rights purposes. In Chapter 3, I show how sanctions were framed as the moral option in a perceived battle between principle and profit. This framing led human rights activists and policymakers to use the absolutist reasoning that sanctions were “the right thing to do” and, therefore, support sanctions. In Chapter 4, I illustrate how the morally polarized structure of the MFN debate also had the indirect effect of making the moral credibility of debate participants an important factor in the debates and shaping how moral credibility was assessed. Policymakers were concerned with people’s moral credentials and not just whether their arguments were reasonable. These assessments of moral credibility led to the public reinforcement of policymakers’ absolutist reasoning and support for sanctions. Consequentialist critiques of sanctions, arguments that sanctions would hurt the wrong people and would be ineffective, were present during the MFN debates, however, they were invalidated because they came from people who lacked moral credibility.
In Chapters 5 and 6, I examine the conditions that challenge the use of sanctions for human rights purposes. In Chapter 5, I explain why China’s MFN trade status was ultimately not revoked for human rights purposes. Despite the persistent push by human rights advocates to link China’s MFN status to its human rights performance, Presidents Bush and Clinton decided to renew China’s MFN status annually without human rights conditions. I discuss the economic and political challenges to material sanctions during the MFN debates. I show how the economic and political costliness of MFN revocation ultimately led to its demise as the stick of choice in U.S. human rights policy toward China. However, I also show how the business groups, administrations, and legislators that opposed conditioning MFN renewal upon human rights improvements did not question the logic of sanctions. In fact, these opponents to the MFN stick proposed other sticks instead, retaining the sanctions approach. In Chapter 6, I explore how discussions in the morally polarized setting of the MFN debates differed from the depolarized setting of the Congressional-Executive Commission on China hearings. As part of the compromise to establish PNTR with China and end the annual MFN debate, the U.S. Congress established the CECC as a new forum to continue discussing China’s human rights problems. I demonstrate how once the debate was no longer polarized, the policymaking discussions became more productive. In this setting, sanctions were no longer viewed as the only option for U.S. human rights promotion in China, rather, policymakers began to embrace efforts to promote human rights from within like grassroots exchanges and training programs. Absolutist reasoning and assessments of moral credibility disappeared with a change in the composition of hearing participants, a
change in the aim of the discussion, and a privatization of the deliberations. I argue that the polarization of the debate in the U.S. prevented the earlier exploration of creative alternatives to sanctions.

In Chapter 7, the concluding chapter, I recapitulate my argument for why sanctions advocacy has persisted in debates over U.S. human rights policy toward China and the conditions under which new policy ideas were able to emerge. Strong criticisms of a sanctions approach to human rights promotion had little effect because of the morally polarized setting in which public and Congressional deliberations occurred. I review how in the U.S. there was a moral impetus for costly sanctions and an economic impetus against costly sanctions but an absence of a moral voice against costly sanctions. I, then, discuss how closely public and Congressional deliberations over U.S. human rights policy toward China approximates deliberative democratic ideals and how sacred settings affect the outcomes of deliberation. Finally, I provide suggestions for future human rights policymaking and discuss avenues for future research.
**TABLE 1.1: DOXEY’S “TYPOLOGY OF NON-VIOLENT SANCTIONS” (1996)**

I. DIPLOMATIC AND POLITICAL MEASURES
   (a) Public protest, censure, condemnation
   (b) Postponement, cancellation of official visits, meetings, negotiations for treaties and agreements
   (c) Reduction, limitation of scale of diplomatic representation affecting status of post, diplomatic personnel, consular offices
   (d) Severance of diplomatic relations
   (e) Withholding recognition of new governments or new states
   (f) Vote against, veto admission to international organization; vote for denial of credentials, suspension or expulsion; removal of headquarters, regional offices of international organizations from target

II. CULTURAL AND COMMUNICATIONS MEASURES
   (a) Curtailment, cancellation of cultural exchanges, scientific cooperation, educational ties, sports contacts, tourism
   (b) Restriction, withdrawal of visa privileges for target nationals
   (c) Restriction, cancellation of telephone, cable, postal links
   (d) Restriction, suspension, cancellation of landing and overflight privileges; water transit, docking and port privileges; land transit privileges

III. ECONOMIC MEASURES
   (i) Financial
      (a) Reduction, suspension, cancellation of development assistance, military assistance
      (b) Reduction, suspension, cancellation of credit facilities at concessionary market rates
      (c) Freeze, confiscation of bank assets of target government, target nationals
      (d) Confiscation, expropriation of other target assets
      (e) Freeze interest, other transfer payments
      (f) Refusal to refinance, reschedule debt payments (interest, principal)
      (g) Vote against loans, grants, subsidies, funding for technical or other assistance from international organizations
   (ii) Commercial and Technical
      (a) Import, export quotas
      (b) Restrictive licensing of imports, exports
      (c) Limited, total embargo import, exports (Note: arms embargoes)
      (d) Discriminatory tariff policy, including denial of most favored nation (MFN) status, access to General Preferential Tariff
      (e) Restriction, cancellation of fishing rights
      (f) Suspension, cancellation of joint projects
      (g) Suspension, cancellation of trade agreements
      (h) Ban on technology exports
      (i) ‘Blacklisting’ those doing business with the target
TABLE 1.1: DOXEY’S “TYPOLOGY OF NON-VIOLENT SANCTIONS” (1996), CONTINUED

(j) Curtailment, suspension, cancellation of technical assistance, training programmes
(k) Ban on insurance and other financial services
(l) Tax on target’s exports to compensate its victims
TABLE 1.2: RE-ANALYSIS OF HUFBAUER, SCHOTT, AND ELLIOT’S DATA (2007): SANCTIONS WITH HUMAN RIGHTS GOALS
[“SUCCESSFUL OUTCOMES”* IN BOLD]

<table>
<thead>
<tr>
<th>Case no.</th>
<th>Principal sender</th>
<th>Target country</th>
<th>Active years</th>
<th>Goals of sender</th>
<th>Success score</th>
<th>Pape’s reassessment</th>
</tr>
</thead>
</table>
| 54-4     | US, S. Vietnam   | N. Vietnam     | 1975-98      | 1) Account for MIA’s  
2) Withdraw from Cambodia  
3) Improve human rights       |               |                     |
| 62-2     | UN               | South Africa   | 1962-94      | 1) End apartheid  
2) Grant independence to Namibia                                                | 8             |                     |
| 72-1     | US, UK           | Uganda         | 1972-79      | 1) Retaliation for expelling Asians  
2) Improve human rights  
3) Destabilize Amin government                                                   | 12            | Outcome determined by force |
| 73-2     | US               | S. Korea       | 1973-77      | Improve human rights                                                            | 4             |                     |
| 75-4     | US               | Kampuchea       | 1975-79      | 1) Improve human rights  
2) Deter Vietnamese expansionism                                                  | 2             |                     |
| 75-5     | US               | Chile          | 1975-90      | 1) Improve human rights and resolve Letelier case  
2) Restore democracy                                                            | 8             |                     |
| 76-1     | US               | Uruguay        | 1976-81      | Improve human rights                                                            | 6             |                     |
| 77-1     | US               | Paraguay       | 1977-81      | Improve human rights                                                            | 6             |                     |
| 77-3     | US               | Argentina      | 1977-83      | Improve human rights                                                            | 6             |                     |
| 77-5     | US               | Nicaragua      | 1977-79      | 1) Destabilize Somoza government  
2) Improve human rights                                                            | 12            | Outcome determined by force |
| 77-6     | US               | El Salvador    | 1977-81      | Improve human rights                                                            | 6             |                     |
| 77-7     | US               | Brazil         | 1977-84      | Improve human rights                                                            | 6             |                     |
| 77-8     | US               | Ethiopia       | 1977-92      | 1) Settle expropriations claims  
2) Improve human rights                                                            | 6             |                     |
| 78-5     | US               | USSR           | 1978-80      | Liberalize treatment of dissidents—e.g., Shcharansky                           | 2             |                     |
| 79-4     | US               | Bolivia        | 1979-82      | 1) Improve human rights  
2) Deter drug trafficking                                                           | 6             |                     |
<table>
<thead>
<tr>
<th>Year</th>
<th>Country</th>
<th>Country 2</th>
<th>Years</th>
<th>Outcomes</th>
<th>Outcome Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>81-2</td>
<td>US</td>
<td>Poland</td>
<td>1981-82</td>
<td>1) Lift martial law 2) Free dissidents 3) Resume talks with Solidarity</td>
<td>9</td>
</tr>
<tr>
<td>82-2</td>
<td>Netherlands</td>
<td>Suriname</td>
<td>1982-91</td>
<td>1) Improve human rights 2) Limit alliance with Cuba and Libya 3) Reverse coup</td>
<td>9</td>
</tr>
<tr>
<td>85-1</td>
<td>US, British Commonwealth</td>
<td>South Africa</td>
<td>1985-91</td>
<td>End apartheid</td>
<td>12</td>
</tr>
<tr>
<td>86-3</td>
<td>Greece</td>
<td>Turkey</td>
<td>1986-99</td>
<td>1) Renounce claims to Aegean Island 2) Withdraw troops from Cyprus 3) Improve human rights</td>
<td>4</td>
</tr>
<tr>
<td>87-2</td>
<td>US</td>
<td>Haiti</td>
<td>1987-90</td>
<td>1) Improve human rights 2) Restore democracy 3) Stop drug smuggling</td>
<td>6</td>
</tr>
<tr>
<td>87-4</td>
<td>India, Australia, New Zealand</td>
<td>Fiji</td>
<td>1987-2001</td>
<td>1) Restore democracy 2) Modify constitution to protect minority rights</td>
<td>4</td>
</tr>
<tr>
<td>88-1</td>
<td>US, EU, Japan</td>
<td>Burma</td>
<td>1988-</td>
<td>1) Improve human rights 2) Restore democracy</td>
<td>4</td>
</tr>
<tr>
<td>88-2</td>
<td>US, UK, UN</td>
<td>Somalia</td>
<td>1988-</td>
<td>1) Improve human rights 2) End civil war</td>
<td>2</td>
</tr>
<tr>
<td>89-2</td>
<td>US</td>
<td>China</td>
<td>1989-</td>
<td>1) Retaliation for Tiananmen Square 2) Improve human rights</td>
<td>2</td>
</tr>
<tr>
<td>89-3</td>
<td>US</td>
<td>Sudan</td>
<td>1989-</td>
<td>1) Improve human rights 2) End civil war 3) Restore democracy</td>
<td>4</td>
</tr>
<tr>
<td>90-2</td>
<td>US</td>
<td>El Salvador</td>
<td>1990-93</td>
<td>1) Improve human rights 2) End civil war</td>
<td>9</td>
</tr>
<tr>
<td>91-4</td>
<td>US, Netherlands</td>
<td>Indonesia</td>
<td>1991-97</td>
<td>1) Improve human rights 2) End conflict, human rights violations in East Timor</td>
<td>2</td>
</tr>
<tr>
<td>91-8</td>
<td>US</td>
<td>Peru</td>
<td>1991-95</td>
<td>1) Improve human rights 2) Promote democracy</td>
<td>4</td>
</tr>
<tr>
<td>92-2</td>
<td>EC/EU, France, Germany</td>
<td>Togo</td>
<td>1992-</td>
<td>1) Establish democracy 2) Improve human rights</td>
<td>4</td>
</tr>
<tr>
<td>Year</td>
<td>Region1</td>
<td>Region2</td>
<td>Start-End</td>
<td>Objectives</td>
<td>Outcome Index</td>
</tr>
<tr>
<td>------</td>
<td>---------</td>
<td>---------</td>
<td>-----------</td>
<td>------------</td>
<td>---------------</td>
</tr>
<tr>
<td>92-3</td>
<td>US, UK</td>
<td>Malawi</td>
<td>1992-93</td>
<td>1) Establish democracy  2) Improve human rights</td>
<td>16</td>
</tr>
<tr>
<td>92-4</td>
<td>EU, Spain</td>
<td>Equatorial Guinea</td>
<td>1992-2000</td>
<td>1) Establish democracy  2) Improve human rights</td>
<td>6</td>
</tr>
<tr>
<td>92-6</td>
<td>US</td>
<td>Cameroon</td>
<td>1992-98</td>
<td>1) Establish democracy  2) Improve human rights</td>
<td>4</td>
</tr>
<tr>
<td>92-9</td>
<td>USSR/Russia</td>
<td>Estonia</td>
<td>1992-99</td>
<td>Increase rights of Russian minority</td>
<td>4</td>
</tr>
<tr>
<td>92-13</td>
<td>USSR/Russia</td>
<td>Latvia</td>
<td>1992-98</td>
<td>Increase rights of Russian minority</td>
<td>4</td>
</tr>
<tr>
<td>93-4</td>
<td>US, EU</td>
<td>Nigeria</td>
<td>1993-98</td>
<td>1) Improve human rights  2) Establish democracy  3) Stop drug trafficking</td>
<td>4</td>
</tr>
<tr>
<td>95-2</td>
<td>EU</td>
<td>Turkey</td>
<td>1995</td>
<td>Improve human rights</td>
<td>9</td>
</tr>
<tr>
<td>96-3</td>
<td>US, Western donors</td>
<td>Zambia</td>
<td>1996-98</td>
<td>1) Improve human rights  2) Constitutional reform</td>
<td>4</td>
</tr>
<tr>
<td>96-4</td>
<td>US</td>
<td>Colombia</td>
<td>1996-98</td>
<td>1) Stop drug trafficking  2) Improve human rights</td>
<td>6</td>
</tr>
</tbody>
</table>

* Hufbauer, Schott, and Elliot (2007) calculate the success of a sanctions episode based on two indexes. The first is a policy result index ranging from 1-4, where 1 represents a failed outcome, 2 represents an unclear but possibly positive outcome, 3 represents a positive outcome with the sender’s goals partly realized, and 4 represents a successful outcome with the sender’s goals largely or entirely realized. The second is a sanctions contribution index ranging from 1-4, where 1 represents negative contribution, 2 little or no contribution, 3 substantial contribution, and 4 decisive contribution. These two index scores are multiplied to arrive at the success score which can range from 1 to 16 with 16 indicating complete success and 1 complete failure. They consider a score of 9 or higher as a successful outcome (49-50).
CHAPTER 2
STUDYING PUBLIC DELIBERATION:
THEORY AND METHODS

To answer the question of why strong criticisms of a sanctions approach to human rights promotion do not deter sanctions advocacy, I examine public deliberation over the use of sanctions for human rights purposes. We need to know whether these criticisms enter the discussion and why, if they do, are so ineffectual. I argue that meaning contexts shape public deliberation in a way that aids the persistence of sanctions advocacy. Thus, the three key variables are meaning contexts, public deliberation, and sanctions advocacy (meaning contexts → public deliberation → sanctions advocacy). This chapter establishes the theoretical foundation for studying public deliberation and describes the methods I use to study it. First, I review and discuss the weaknesses of existing explanations for sanctions advocacy. Second, I explain how understanding the effects of public deliberation helps to explain sanctions advocacy and show how my research fills gaps in studies of deliberative democracy. Third, I present the data I used and explain the methods I utilized to examine meaning contexts, public deliberations, and policy.

EXISTING EXPLANATIONS FOR SANCTIONS ADVOCACY

REALPOLITIK

Realpolitik theory fails to explain the sanctions paradoxes. Realpolitik theorists argue that U.S. foreign policy actions are or should be governed by a power calculus in which the maintenance of U.S. power relative to other nations is the chief goal (Morgenthau and Thompson 1985; Waltz 1979). Scholars have used the fact that the U.S. intervenes in human rights matters to illustrate the weakness of realist
explanations of foreign policy (Keck and Sikkink 1998; Sikkink 1993). In fact, it is precisely because U.S. presidents have been perceived as too realist that Congress has been compelled to intervene in foreign policy, thus, opening the doors to public and legislative deliberation on foreign policy (Lindsay 1994; Forsythe 1988). This trend is echoed in the findings of this study. The only leader who publicly argued that the U.S. should stay out of other countries’ domestic affairs altogether was Henry Kissinger, an oft-noted exemplar of realpolitik reasoning. However, Kissinger proves to be an outlier in his vigorous defense of realism. Indeed, we see that even when U.S. leaders decided against the costly sanction of putting human rights conditions on China’s MFN renewal, they were required to make concessions to domestic demands for “moral” action through the use of other sanctions. In the debates over U.S. human rights policy toward China, it was extremely rare to see pure realpolitik reasoning in a public setting due to a cultural imperative in the U.S. to make policy based on “principle.” Therefore, a realpolitik perspective cannot account for the more complicated political and social dynamics that guide human rights policy. To understand these dynamics, we have to examine public deliberation on policy decisions.

The Positive Theory of Institutions

Given that the push for sanctions came from Congress and not from the executive, another possible explanation comes from the positive theory of institutions. DiMaggio and Powell (1991) explain, “The positive theory of institutions is concerned with political decision making, especially the ways in which political structures (or institutions) shape political outcomes” (5). Given the persistence of sanctions use, a
natural question is whether it has some structural, institutional cause. The relevant political structures for positive institutional theorists are the rules and procedures of Congress which direct policy decisions. While the Constitution prescribes that the legislative and executive branches of government share powers in foreign affairs, in practice, scholars have observed that Congress generally acquiesces to the President (Koh 1988; Lindsay 1994). However, scholars also point to a resurgence of Congressional influence on foreign policy in the late 1960s and the early 1970s due to frustrations with executive decisions surrounding the Vietnam War (Lindsay 1994) and an amoral and Machiavellian Nixon-Kissinger foreign policy (Forsythe 1988). Lampton (2001) specifically argues in the case of China that the shift from a security-centered relationship to an economics-centered relationship put greater control in the Congressional domain in China policy. He explains, “The growing importance of economic ties with China, combined with receding security concerns (in the aftermath of the cold war) and the mobilizing effect of Tiananmen, increased Congress’s role in making China policy. The U.S. Constitution vests Congress with significant powers in the trade arena (e.g., to set tariff levels)” (Lampton 2001: 11).

There was institutional precedence for attaching human rights conditions to MFN renewal in the form of the Jackson-Vanik amendment to the 1974 Trade Act. Under the Jackson-Vanik amendment, the President is required to certify that countries with non-market economies allow their citizens to emigrate freely for their MFN status to be renewed. The provisions of the Jackson-Vanik amendment, or Section 402(a)(b) are well-summarized by Forsythe (1988): “The Jackson-Vanik amendment … prohibits the granting of most-favored-nation status as well as U.S.
credits, to countries with nonmarket economies that restrict unreasonably the right of emigration for their citizens. The president has the authority to waive these restrictions for twelve months if such a waiver would promote the objectives of the act. Neither the 1974 act nor its legislative history clearly defines unreasonable restriction, and the letter of the statute only pertains to emigration” (74). Even when there are legislative rules and procedures in place, however, there is no guarantee that policymakers actually follow these rules. Though proponents of revoking or conditioning China’s MFN status cited the Jackson-Vanik amendment to the 1974 Trade Act when pushing their position, the actual statute of the law only lists one criterion for MFN renewal—freedom of emigration. If policymakers truly were to follow the letter of the law, they would not have been able to expand Jackson-Vanik to include other human rights conditions. In fact, adding human rights conditions required legislators to stretch the law. Deviance from the official requirements of the Jackson-Vanik Amendment may have been met with questions during the MFN debates but they were not met with punishment or reprimand. Members of Congress who argued that there be a flexible interpretation of the amendment were not seen as illegitimate policymakers for doing so. Therefore, it is not enough to look at the rules. We must look at how the rules are bent and why and when it is acceptable to bend the rules, conditions which are revealed in the deliberative process.

Moreover, while trade is one of the primary areas in which Congress makes its voice heard in foreign policy, it is not the only outlet for Congressional action in foreign policy. The actions that Congress is constitutionally-authorized to take in the realm of foreign policy also include the Senate’s power to grant or withhold its
consent to treaties, the power to declare war, the power to appropriate money, and the power to make procedural changes (including creating new agencies and positions in the executive branch, allowing new participants in policymaking, enacting legislative vetoes, creating new procedural requirements, and creating reporting requirements) in addition to the power to regulate foreign commerce (Lindsay 1994). Congress can also exert influence through non-legislative means, including congressional diplomacy, executive-legislative consultations, and the framing of public and elite opinion (Lindsay 1994). Why did members of Congress use the power to regulate commerce to promote human rights rather than the power of appropriations to fund technical assistance programs? The answer lies in how the MFN decision was framed. Just as the Jackson-Vanik amendment was established within a climate of Congressional backlash to seemingly amoral decisions by the executive branch, Congress invoked Jackson-Vanik as a means to counter what they saw as Bush’s insufficiently moral response to the Tiananmen crackdown. Therefore, the use of sanctions cannot be attributed to simply following laws or enacting bureaucratic roles. We must understand the discursive context which enabled the employment of a liberal application of the Jackson-Vanik amendment to China’s human rights issues.

RATIONAL POLICYMAKERS

The paradox of the continued use of ineffective sanctions is particularly puzzling for those who assume that policymakers are rational actors who try to find the most effective and least costly solution to a problem. Their speculations as to why the paradox exists center on glitches in rational policymaking. Pape (1997) speculates that policymakers might systematically overestimate the success of sanctions, that they
might use sanctions as a way to enhance future credibility of the use of force, or that sanctions might produce some kind of domestic benefit to leaders (109). Contrary to Pape’s hypotheses, in the data I do not find evidence of simple overestimations of sanctions success, of war even being considered as an option, nor of significant domestic benefits to policymakers like increased popularity among constituents or increased chances of re-election. Baldwin (1999/2000) argues that the problem with studies that demonstrate the ineffectiveness of sanctions is that they do not consider the costs and benefits of alternative policy options. When compared to other options, sanctions might actually prove to be less costly and more beneficial than the other options, thus making it a rational choice for policymakers. Rational choice is actually a good explanation for why some policymakers did not advocate sanctions. Opponents of sanctions perceived them as too costly and ineffective, however, these arguments did not dissuade sanctions proponents due to the meaning they attached to sanctions.

The problem with a strictly rational choice perspective is its assumption of the universality of rational, cost-benefit reasoning. In the setting of a morally polarized debate, some policymakers used absolutist reasoning rather than consequentialist reasoning. For some the desire to “do what’s right” led to a disregard for whether or not sanctions would actually be effective in improving respect for human rights in China. Others claimed that sanctions were effective based on questionable exemplars of sanction effectiveness, like the case of South Africa, or based on the short-term gain of prisoner releases. Advocates of sanctions also ignored the arguments of opponents that they would be ineffective because these arguments came from people who lacked moral credibility. Calculations of effectiveness were not critical to sanctions advocacy.
Opponents, rather than proponents, of sanctions best exemplified the rational policymaker in that they argued that MFN revocation would be too costly for U.S. economic and political interests and of questionable effectiveness. However, these same opponents of MFN often backed alternative sanctions that were also of dubious effectiveness. It was not strictly rational reasoning that led to sanctions advocacy.

**INTEREST GROUPS**

Interest group explanations improve upon rational policymaker explanations by recognizing that policymakers do not make their decisions independently and in isolation from society. Prevailing explanations for the contours of U.S. human rights policy, in general and specifically toward China, focus on competing interests and interest groups. A dominant trope in foreign policy is the clash of competing interests. Donnelly (2000) states, “The problem of competing incommensurable interests is a general problem of foreign policy, not one restricted to human rights and other moral interests” (328). In the post-Cold War era, many policymakers and scholars have asserted that the main tension in foreign policy is now between human rights and economic interests. Dittmer (2001) writes, “In place of the Cold War correlation between ideology and interest, a new tension has arisen between human rights and economic interdependence” (2001: 455). This clash between economic interests and human rights is generally seen as inevitable or natural due to increased economic interdependence and a rise in human rights ideology. While these two conditions might provide an international environment with more opportunities for tensions between economic interests and human rights to arise, a clash between them was not inevitable. In other words, economic interdependence and a rise in human rights
ideology are necessary but not sufficient conditions to formulate a clash between economic interests and human rights.

In fact, there are plenty of people who argue that increased trade actually facilitates human rights improvements. This argument has a number of auspices: the “trickle-down human rights theory,”\textsuperscript{12} the “liberal myth” (Madsen 1995), or the “soothing scenario” (Mann 2007). The underlying belief is that economic liberalization will eventually lead to political liberalization. The mechanisms by which this is supposed to occur is by supporting a growing middle-class which will eventually demand political liberties, through greater openness to outside influences by liberal states, or the necessity of rule of law in governing economic transactions transferring to political arenas. These theories provide an imaginable alignment of material and ideal interests. Many also believe that trade has great potential to raise the standard of living in developing nations and, therefore, could also be viewed as conducive to the improvement of economic rights in addition to political rights. Given the ideological possibilities for trade and human rights to be seen as perfectly compatible, how did the debate on human rights come to be formulated as a battle between trade and human rights? A fuller explanation of human rights policy must move beyond an assumption of competing interests.

Specifically in regards to China policy, scholars attribute interest groups with a great deal of agency in shaping policy. Specialists in Sino-U.S. relations assert that there has been a policy vacuum in China policy since the end of the Cold War and that this policy vacuum has led to more room for non-state actors to influence U.S. policy.

towards China. Vogel (1997) writes, “When clear national purposes collapsed in the
United States at the end of the cold war, no consensus remained to counterbalance
either the appeals of special interest groups or the images projected by the media, both
of which gained greater prominence in the ensuing policy vacuum. Interest groups and
television stories, no matter how quixotic and inconsistent with overall U.S. priorities,
are now able to shape national policy” (17). Vogel confers a large amount of agency
upon interest groups and the media in the shaping of U.S. policy toward China in the
post-Cold War era. In a similar vein, Lampton (2001), speaking of the Bush senior and
simply means that diverse interest groups and the mass media fill the void. Foreign
policy, one might say, abhors a conceptual vacuum” (9). Lampton, in agreement with
Vogel, sees the public, in the form of interest groups and mass media, as having the
heaviest impact on foreign policy at a time when presidential leadership is absent.

Scholars have attributed two groups, in particular, with a great degree of
influence in U.S. human rights policy—human rights groups and businesses.
Researchers largely credit the presence of human rights on the foreign policy agenda
to human rights non-governmental organizations, or NGOs (Burgerman 1998;
Chandler 2001; Clark 1995; Joachim 2003; Mertus 2008). However, in a world of
competing interests, they also believe it is economic interest groups that are more
influential in policy decisions. For example, the typical story under the Clinton
administration was that human rights activists lost out to the more powerful business
lobby leading to the renewal of China’s most favored nation (MFN) status rather than
the revocation of MFN status in response to China’s human rights violations. Forsythe
(1995) explains, “What counted in the last analysis … was different domestic demand, in Clinton’s case a domestic demand for economic benefits and low costs to foreign involvements. Big business lobbied hard to avoid interruption of Chinese trade, and even some congressional Democrats and assorted labour groups argued in the same direction” (128).

While in the study of China policy and human rights policy, there seems to be a rather large consensus that interest groups were the key explanatory factor, within sociology and political science more generally, there is growing skepticism about the degree to which interest groups influence policy. In addition to changing the status quo, social movement actors may also reproduce it (Polletta 2008). Dobbin (1993) found that national industrial policy paradigms are more consequential in explaining policy and policy change than interest group competition. Burstein and Linton (2002) conducted a systematic review and reanalysis of articles in major sociology and political science journals from 1990 to 2000 on the impact of political parties, interest groups, and social movement organizations (SMOs) on policy. They conclude that there is little evidence to support the hypothesis that parties, interest groups, and SMOs significantly influence public policy. Specifically in the case of China policy, Dietrich (1999) has questioned the role ascribed to interest group influence on China policy. In his study of Clinton’s most-favored-nation decisions, he concludes that “while interest groups’ actions can no longer be ignored by policy analysts, their policy influence remains only minor” (Dietrich 1999: 280).

I find that interest groups do have an impact on U.S. human rights policy. The business lobby did help to prevent the linking of China’s MFN renewal to human
rights. The human rights lobby did help to push for sanctions in U.S. human rights policy. Yet, an explanation based on competing interests and interest groups alone cannot fully explain policy and policy change. Starting with a theoretical framework based on competing interests ignores the process by which interests come into competition and obscures the fact that a clash between human rights and economic interests is not inevitable. Also the role of interest groups seems to be limited to advocacy for or against policy positions set by the government. While the business lobby and the human rights lobby did appear to influence the positions of policymakers, they did not influence the list of policy options on the table. They generally argued for or against policy options rather than generating alternative policy ideas.

**NEW INSTITUTIONALISM**

In previous studies, new institutional theory has served as a helpful corrective to a rational policymaker model in explaining the policymaking process. Sanctions, at first glance, seem to be an institutionalized strategy of action. Strategies of action are “persistent ways of ordering action through time” (Swidler 1986: 273). By an institutionalized strategy of action, I mean a way of doing things that is not only persistent but also taken-for-granted as the way things are done. Both ends and means may be institutionalized. Dobbin and his colleagues (2007) write, “Both legitimate ends and appropriate means are shared social constructs that vary from one period to the next” (451).

The new institutionalist paradigm has been useful for analyzing practices that seem to take on a life of their own. It emerged as a challenge to the rational model of
human behavior, the model of an economistic individual who calculates his/her actions in order to maximize benefits and minimize the costs that will ensue from taking that action (DiMaggio and Powell 1991). Scholars found that individuals are not always calculative and rational, do not always have articulable reasons for doing things, are not always intentional, and are not always self-interested. DiMaggio and Powell (1991) write, “The constant and repetitive quality of much organized life is explicable not simply by reference to individual, maximizing actors but rather by a view that locates the persistence of practices in both their taken-for-granted quality and their reproduction in structures that are to some extent self-sustaining” (9). In the realm of policymaking scholarship, the concept of institutionalization is insightful for understanding why the policy process does not always occur in a manner consistent with a “production model” of policymaking that assumes a rational model of human behavior. The policymaking process often does not resemble the “production model” of policymaking that is often purported by political scientists in which “policy is created in a fairly orderly sequence of stages” and in which solutions are “rationally weighted and calculated” (Stone 2002: 11).

Like other institutionalisms, neo-institutionalist theories, too, are overly structural. A strong version of cognitive institutionalism is well-illustrated in Scott’s (2008) description: “For cultural cognitive theorists, compliance occurs in many circumstances because other types of behavior are inconceivable; routines are followed because they are taken for granted as ‘the way we do things’” (58). The only social aspect of new institutionalism is that institutionalized schemas are shared among and transmitted through people. There are theoretical and empirical problems
with new institutionalist explanations. Lizardo (2010) argues that strong versions of cognitive institutionalism are empirically untenable. He claims that if something were truly cognitively institutionalized we, as researchers, should not be able to conceive of an alternative type of behavior. Moreover, when pressed to think of an alternative type of behavior, people are generally able to think of one or several.

During the deliberations, some participants did argue that sanctions were the only option, which seemingly supports the neo-institutionalist proposition that they are the “taken-for-granted” means of human rights promotion. However, upon closer inspection, it becomes clear that the perception that sanctions were the only option was not the result of cognitive difficulties in imagining alternatives. Alternatives were discussed but not by those with an identity as a human rights advocate. The perception that sanctions were the only option was unique to those with a human rights identity and specific to the context of a morally polarized debate. If sanctions were fully institutionalized, then there should have been no debate and no alternatives to sanctions offered by any debate participant. This was not the case.

**American Culture/Identity**

Coming from a different cultural angle, some argue that American culture or identity shapes its foreign policy. Donnelly (2000) contends that states’ human rights policies reflect their national or international identity. He writes, “The international human rights policies of most states are in significant measure identity based; that is, they reflect the extent to which (national and international) human rights values have shaped or re-shaped understandings of who they are and what they value” (311). He claims that for the U.S., human rights are “at the heart of its national self-definition”
Ignatieff (2005) has observed that “across the American political spectrum since 1945, American presidents have articulated a strongly messianic vision of the American role in promoting human rights abroad” (13). In this view, Americans see themselves as missionaries of human rights and, therefore, pursue extreme measures in order to convert the non-democratic world. This messianic vision of America does seem to motivate human rights intervention abroad. Most Americans believe that America should do something to respond when human rights violations are occurring elsewhere.

While promoting human rights abroad does seem to define American identity, this does not completely explain the particular method Americans have chosen. Swidler (2001) opposes values-based explanations of how culture influences action. She argues, “Values are important. But values are not the reason why a person develops one strategy of action rather than another” (86). Contrary to her conclusion, I find that values can be the reason why a person develops one strategy of action rather than another. I believe that the reason why our conclusions differ is because Swidler (2001) bases her conclusions on out-of-context interviews. While individuals might create their own meanings, when interacting in the social world those meanings are also influenced by societal context. Sanctions acquired a particular meaning to those involved in the debates over U.S. human rights policy toward China. They were framed as the “principled” option in a battle between principle and profit, and this framing influenced how participants reasoned or justified their stance. While proponents and opponents alike cited U.S. values to justify their positions, the role that these values played in their reasoning processes differed. For proponents, the framing
of the decision as a moral trade-off compelled absolutist reasoning and, thus, support for sanctions. For opponents, the framing of the decision as a moral trade-off required them to justify their opposition to sanctions in moral terms and to contest the moral meaning accorded to sanctions. Values are important, but how they influence action is dependent on meaning contexts.

Taking a cue from the tenets of social interactionism, I believe that studies of how culture influences policy must examine how meaning is created and employed in interaction. Blumer (1969) describes the three basic premises of a symbolic interactionist perspective:

The first premise is that human beings act toward things on the basis of the meanings that the things have for them. … The second premise is that the meaning of such things is derived from, or arises out of, the social interaction that one has with one’s fellows. The third premise is that these meanings are handled in, and modified through, an interpretive process used by the person in dealing with the things he encounters (2).

The premises of symbolic interaction now form part of the “hard core” of the cultural sociological research program, yet cultural sociologists often study meaning-making out of context, outside of social interaction. Eliasoph and Lichterman (2003) observe:

Culture scholars often derive cultural vocabularies from interview evidence (Wuthnow 1991; Hart 1992) or combinations of interview and participant-observation evidence (Bellah et al. 1985; Hart 2001; Tipton 1982). But the interview is itself also a setting (Cicourel 1981; Mishler 1986; Briggs 1991) that does not have the same properties as other everyday settings. … Analysts of cultural vocabularies have not taken differences in setting explicitly into account (743).

In their study, Eliasoph and Lichterman (2003) once again try to place culture in context by examining how meaning is created within group contexts, using a “culture in interaction” approach. In the same way, I study how meaning is created and utilized
in interaction in the area of human rights policy through examining public deliberations.

**THE EFFECTS OF PUBLIC DELIBERATION**

While each of the factors identified by these perspectives influences policy advocacy and policymaking, both alone and in combination they cannot account for the paradoxical advocacy of sanctions for human rights promotion. Table 2.1 summarizes the deficiencies of existing perspectives. To better understand why the public and policymakers continued to endorse the use of sanctions for human rights promotion, we need to look at the social interaction of the debate, at public deliberation. These existing perspectives all fail to take into account how variable these factors, groups, and types of reasoning are. Their influence on policy advocacy depends on how they fare in the face of public accountability. How they manifest themselves in practice is contingent on how they can be justified in public deliberation. Is public reasoning based on political realism, regulative or cognitive institutionalism, rational cost-benefit analysis, concessions to self-interested groups, or American values and identity? What type of reasoning is acceptable in public and in specific meaning contexts and how does this enable or constrain policy?

**DELIBERATIVE DEMOCRATIC THEORY**

The starting point for this study is deliberative democratic theory. It is a normative theory, that is, it specifies an ideal of how democracy should be. According to Chambers (2003), “[I]t claims to be a more just and indeed democratic way of dealing with pluralism than aggregative or realist models of democracy” (308). The central question that animates deliberative democratic theory is: “In a state of
disagreement, how can citizens reach a collective decision that is legitimate?"
(Thompson 2008: 502). Most of us are familiar with one way that this works in a
democracy—through voting. Citizens who disagree can vote on a decision and accept
the decision as legitimate because everyone has the opportunity to vote and because it
is a decision based on the preferences of the majority. Chambers (2003) explains that
deliberative democratic theory is talk-centric rather than voting-centric: “Voting-
centric views see democracy as the arena in which fixed preferences and interests
compete via fair mechanisms of aggregation. In contrast, deliberative democracy
focuses on the communicative processes of opinion and will-formation that precede
voting. Accountability replaces consent as the conceptual core of legitimacy” (308). In
deliberation, rather than a collective decision among those who disagree gaining
legitimacy because it is what the majority wants, a collective decision gains legitimacy
because it has been sufficiently justified to those affected by it.

At the heart of democratic deliberation, then, are the activities of reason-giving
and reason-responding. Thompson (2008) writes, “[T]he most distinguishing
characteristic of deliberation is mutual justification—presenting and responding to
reasons intended to justify a political decision” (504). Since legitimacy comes from
accountability, people are required to give an account for their stance before others.
Chambers (2003) defines deliberation as “debate and discussion aimed at producing
reasonable, well-informed opinions in which participants are willing to revise
preferences in light of discussion, new information, and claims made by fellow
participants” (309).
Deliberative democratic theorists specify ideal deliberative conditions under which this give and take of reasons is supposed to occur. There is general agreement among theorists on these conditions. The first ideal condition is equal participation. Mansbridge and her colleagues (2010) state, “The deliberation should, ideally, be open to all those affected by the decision. The participants should have equal opportunity to influence the process, have equal resources, and be protected by basic rights” (66).

The second ideal condition is logical justification. Steiner and his colleagues (2004) explain, “Whatever the exact form of justification, the key point is that the participants present their arguments in a logically coherent way so that the other participants can understand what the arguments are” (21). The third ideal condition is public-spiritedness. Participants should be making arguments based on the common good as opposed to pure self-interest (Steiner et al. 2004; Thompson 2008). The fourth ideal condition is mutual respect. Participants should be “willing to truly listen to the arguments of others and to treat them with genuine respect” (Steiner et al. 2004: 22).

The fifth ideal condition is freedom from coercion. Mansbridge and her colleagues (2010) state, “The criterion that most clearly distinguishes deliberative from non-deliberative mechanisms within democratic decision is that in the regulative ideal, coercive power should be absent from the purely deliberative mechanisms” (66). The only type of force that should be present in the ideal deliberative situation is “the force of the better argument” (Habermas 1975: 108). Some theorists also include a sixth ideal condition of truthfulness. Habermas (1983) states that “each speaker may only assert what he believes himself” (98). Participants should not be deceiving or trying to manipulate through their words (Steiner et al. 2004: 20).
The social conditions of the ideal deliberative situation—equal participation, mutual respect, and public spiritedness—are less controversial than the epistemic conditions. Scholars debate how central “reason” should be in democratic deliberation and what constitutes a “better argument.” Mansbridge and her colleagues (2010) observe a trend of moving away from the language of “reason” and toward a criterion of justifiability (67). Good reasons, then, are those that compel or persuade those who disagree. There are still debates as well as to what types of discourse are considered acceptable in public deliberation and whether or not classic reason-giving is a privileged and exclusive form of discourse (Dryzek 2000; Guttman and Thompson 1996; Polletta and Lee 2006; Sanders 1997; Young 1996, 2000). Scholars also disagree as to whether or not the goodness of an argument can be determined endogenously through deliberation or if there should be an exogenous measure (Estlund 1997).

Democratic deliberation is supposed to lead to a variety of beneficial outcomes for democracy and for policy decisions. Guttman and Thompson (1996) describe a split among theorists in which some argue that deliberation has instrumental value while others argue that deliberation has expressive value. They explain, “Deliberative democrats disagree about whether deliberation has only instrumental value, as a means of arriving at good policies, or whether it also has expressive value, as a manifestation of mutual respect among citizens” (21). Yet, most theorists focus on the expressive potential rather than on the instrumental potential of deliberation. In his review, Mendelberg (2002) provides a list of all the possible beneficial outcomes of democratic deliberation:
Citizens will become more engaged and active in civic affairs (Barber 1984). Tolerance for opposing points of view will increase (Gutmann & Thompson 1996). Citizens will improve their understanding of their own preferences and be able to justify those preferences with better arguments (Chambers 1996; Guttman & Thompson 1996). People in conflict will set aside their adversarial, win-lose approach and understand that their fate is linked with the fate of the other, that although their social identities conflict they ‘are tied to each other in a common recognition of their interdependence’ (Chambers 1996; Pearce & Littlejohn 1997; Yankelovich 1991). Faith in the democratic process will be enhanced as people who deliberate become empowered and feel that their government truly is ‘of the people’ (Fishkin 1995). Political decisions will become more considered and informed by relevant reasons and evidence (Chambers 1996). The community’s social capital will increase as people bring deliberation into their civic activities (Fishkin 1995; Putnam 2000). The legitimacy of the constitutional order will grow because people have a say in and an understanding of that order (Chambers 1996; Gutmann & Thompson 1996)” (Mendelberg 2002: 153).

In her review, Mutz (2008) also provides an extensive list of deliberation’s benefits as purported by deliberative democratic theorists: awareness of oppositional arguments, political tolerance, perceptions of legitimacy of opposition, knowledge/information gain/sophistication, empathy, willingness to compromise, participation/civic engagement, opinion change toward more ‘public-spirited’ view, opinion consistency, faith in democratic processes, political self-efficacy, consensual decision, social capital/feelings of community, social trust, and depth of understanding of one’s own positions (530). As both lists reflect, scholars have mainly been concerned with identifying the intrinsic or expressive benefits of democratic deliberation for democracy and for citizens. They do not necessarily speak to whether or not deliberation will produce better decisions.

Most theorists stop just short of claiming that democratic deliberation leads to better decisions. Looking at the above lists, we see that theorists assert the following
about decisions that result from deliberation: they “will become more considered and informed by relevant reasons and evidence,” more public-spirited, and more consensual. Others contend that deliberation will lead to “a rationally motivated consensus” (Cohen 1997: 75), a more “reasonable” decision (Habermas 1996: 301), and outcomes that are “more fair” (Bohman 1996: 6) or more just (Christano 1997: 244). Theorists agree that deliberation will lead to better reasons, yet seem hesitant to conclude that it will also lead to better decisions. Bohman (1996) argues:

[T]he best defense of public deliberation is that it is more likely to improve the epistemic quality of the justifications for political decisions. When deliberation is carried out in an open public forum, the quality of the reasons is likely to improve. In such a forum, public opinion is more likely to be formed on the basis of all relevant perspectives, interests, and information and less likely to exclude legitimate interests, relevant knowledge, or appropriate dissenting opinions” (27).

He also acknowledges that “[w]hether or not such a decision is ultimately for the good of everyone is another matter” (5). Theorists are generally reluctant to resort to a measure of the quality of the decision that relies on a set of objective criteria not determined by the deliberation process. Therefore, deliberation is said to lead to, at the very least, a better-reasoned decision, and potentially also a public-spirited, consensual, more informed, and fairer decision. Whether or not deliberation leads to better decisions is still an open theoretical and empirical question. Guttman and Thompson (2004) remark, “The instrumental view reminds us that because the stakes of political decision-making are high, and deliberation is a time-consuming activity, a deliberative process should contribute to fulfilling the central political function of making good decisions and laws” (22).
Key questions: What types of reasons are considered to be good reasons?

What types of reasons are considered acceptable or unacceptable in public deliberation? Why are some good reasons ignored? Do good reasons necessarily lead to good policies?

Democratic Deliberation in Practice and in Context

The “deliberative turn” in democracy theory has spurred numerous empirical studies on public deliberation. Thompson (2008) remarks of the existing surveys of this research that “taken together the findings are mixed or inconclusive” due to the fact “that the success or failure of deliberation depends so much on its context” (499). Therefore, he asserts that “[t]he most promising approach for empirical research would … seem to be to continue trying to discover the conditions in which deliberative democracy does and does not work well, while paying more attention to the question of to what extent the unfavorable conditions could change” (Thompson 2008: 500, my emphasis).

Congressional Deliberation

While sociologists and political scientists are studying public deliberation in a growing variety of contexts, including various experimental and real-life settings, they have tended to focus on deliberation among citizens rather than deliberation among politicians. Thompson (2008) observes, “Until recently, nearly all studies—and much of the normative theory—investigated deliberation by ordinary citizens rather than politicians” (503). This gap is surprising in light of the fact that the American founders designed Congress to be “the nation’s premier deliberative institution” (Bessette 1994:
The deliberative function of Congress is an essential part of representative democracy in America. Bessette (1994) explains:

In American representative democracy, national legislators serve, in effect, as surrogate deliberators for their constituents. Where the citizenry lack the time, the institutional environment, and perhaps the interest to deliberate in depth on public issues, legislators are expressly chosen to devote their full care and attention to public matters. They have the responsibility to review information and arguments on legislative proposals and to exercise their best judgment on behalf of those whom they serve. This deliberative imperative, this duty to deliberate, is an intrinsic element of the American constitutional order” (218).

Thus, even though deliberative democratic theory is relatively new, democratic deliberation has long been valued and institutionalized. It is, therefore, strange that scholars would ignore it as a potential site for research on deliberative democracy. Polletta and Lee (2006) attribute the shortage of sociological studies of the public sphere in part to “the methodological difficulty of studying a phenomenon—the public sphere—that has existed mainly in the historical and theoretical imagination” (700).

Their claim is based on a view of the public sphere that is limited to deliberation among citizens, rather than deliberation among politicians or between politicians and citizens. Both are important to study, but the privileging of citizen deliberation over politician deliberation is not theoretically supported. Why ignore deliberation among politicians when this is the chief form of institutionalized deliberation in the U.S. and when this is a central form of deliberation in representative democracies?

There is no theoretical basis for systematically excluding legislative deliberation from studies of democratic deliberation. In fact, there is a strong theoretical basis for making sure that they are included. Deliberative democracy is
relevant when there is a need to come to a collective decision among those who disagree that is considered legitimate by those involved. Based on these conceptual criteria, there is no reason to exclude Congressional deliberation in studies of deliberative democracy. In fact, because Congressional deliberation more so than other settings actually do require a collective decision, they form a better forum for studying some of the tenets of deliberative democratic theory than some existing studies. Thompson (2008) explains:

> Even in most empirical studies of deliberation among ordinary citizens, the participants are not making or influencing actual political decisions. Much of the literature in the surveys is based on small group discussions and laboratory experiments (Mendelberg 2002). That is a limitation, not only because what is being studied is several steps removed from what deliberative theory is ultimately concerned about, but also because discussion alone is likely to produce different empirical consequences than those of decision-oriented discussion (503).

Congressional deliberation is one of the best vehicles for studying public deliberation in a non-experimental context with actual consequences for decision-making. It is one of the few settings in the U.S. where regular, face-to-face public deliberation over policy takes place. While experimental settings allow the researcher more control over the variables, the choice of an experimental setting requires the sacrifice of the applicability of findings to actual democratic deliberation in practice.

**Key question:** Does Congressional deliberation demonstrate the ideals of democratic deliberation?

**Sacred versus Profane Contexts**

Luckily, sometimes the real world does offer “natural” experiments of sorts, allowing for the best of both worlds methodologically. The differing forums of
Congressional deliberation over U.S. human rights policy toward China provides just such a “natural” experiment for understanding the effect of meaning contexts on public deliberation. More specifically, it has provided an opportunity in which to examine how deliberation occurs in a sacred realm versus a profane realm. Durkheim (1995) distinguishes between sacred and profane times and spaces. Sacred life and profane life cannot coexist in the same time and space (Durkheim 1995: 312-313). In the profane realm, life is “monotonous, slack, and humdrum” (217), while in the sacred realm, life reaches “an extraordinary height of exaltation” (217). Durkheim describes of the sacred realm, “The effervescence often becomes so intense that it leads to outlandish behavior; the passions unleashed are so torrential that nothing can hold them. People are so far outside the ordinary conditions of life, and so conscious of the fact, that they feel a certain need to set themselves above and beyond ordinary morality” (218). Similarly, I find that when Congress deliberates in a sacred context, different types of reasoning are allowable than in a profane context.

How does a deliberative context become sacred? By framing the decision in sacred terms. Ferree and her colleagues (2002) explain, “Issue frames call our attention to certain events and their underlying causes and consequences and direct our attention away from others. At the same time, they organize and make coherent an apparently diverse array of symbols, images, and arguments, linking them through an underlying organizing idea that suggests what is at stake on the issue” (14). Framing a decision in sacred terms creates a local cultural structure, or “socially established structures of meaning,” that constrains and enables deliberators (Geertz 1973: 12). Geertz (1973) spoke of cultural structures more poetically as “webs of significance.”
He writes, “[M]an is an animal suspended in webs of significance he himself has spun” (Geertz 1973: 5). The moral framing of a decision is both created by society in interaction and acts as an independent force upon society once established. The spiders spin the web, but they also must function within that web.

Sacred decisions are more prone to draw public attention and involve greater public participation. Marietta (2008) writes, “About the sacred we simply care more and are therefore more politically motivated” (769). For example, abortion debates make the news. Ferree and her colleagues (2002) write, “[A]bortion invokes existential issues of life and death and taps into the deepest level of cultural beliefs: about the role of women, the role of state as a moral agent, the sanctity of human life, the right to privacy, the nature of democracy, and society’s obligations to those in need” (6). While the issue of human rights and freedom is also near and dear to Americans (Madsen 1995), U.S. human rights policy does not always draw public attention. It only draws attention when framed in certain ways and with a focusing event like Tiananmen Massacre. Given the historical circumstances of this study, I do not have the ability to disentangle the effects of publicity on deliberation from the effects of a sacred meaning context on deliberation. Publicity and sacred meaning contexts are strongly correlated. Therefore, my findings can only speak to situations in which deliberation is both framed as sacred and public. However, since in the real world this combination is common it should be applicable to other real world scenarios.

There has been little study of how meaning affects deliberation. In a rare study that examines both legislative deliberation and issue polarization, Steiner and his
colleagues (2004) discovered that issue polarization negatively affects the quality of justifications and respect levels in deliberation. While Steiner and his colleagues’ comparative quantitative study of legislative deliberation establishes a correlation between issue polarization and low quality deliberation, it does not reveal why issue polarization has these effects. This is where my study intervenes. It contributes to a better understanding of whether or not it is possible to deliberate on and reach partial agreement or consensus on issues of moral disagreement. Given that the original aim of deliberative democratic theory was to find a way in which disagreeing citizens could reach a collective decision that was considered legitimate by all, it is useful to examine whether or not it can be stretched to include the most divisive of issues.

**Key questions:** How do sacred meaning contexts affect public and Congressional deliberation? Can we deliberate about our most sacred values?

**DATA**

The public deliberations I examine on U.S. human rights policy toward China are Congressional committee hearings and articles from major national newspapers. I examine Congressional committee hearings because I am specifically interested in whether or not democratic deliberation is possible in the Congressional setting. According to Bessette (1994), “[I]t is in committees and subcommittees that the most detailed and extensive policy deliberation occurs within Congress” (156). As opposed to floor deliberations which involve whichever Representatives and Senators choose to be present and which are less dialogical, “[t]he committees and subcommittees provide an opportunity for the kind of detailed examination of information and arguments that a genuine and serious deliberative process requires” (Bessette 1994:).
156). Therefore, it is the best place to examine democratic deliberation within Congress. Congressional committee hearings are public in that they involve members of the public as witnesses and the transcripts are made available to the public. Bessette (1994) explains the procedures of these public hearings: “Witnesses appear before the subcommittee, make brief oral statements, present longer formal statements for the record, and respond to questions from committee members. Such witnesses often include the chief legislative sponsors of the bill, high-ranking administration officials, other interested members of Congress, state and/or local officials, representatives of interest groups (including public interest groups), and outside experts” (157). Since I am interested in the interactive process of public deliberation, I primarily stick to an analysis of only the words spoken during the hearing, as opposed to formal statements that are included in the record. I occasionally consulted formal statements for clarification or additional information.

Two possible criticisms of these hearings are that they are not open to anyone and that they are simply formalities. Congressional hearings are not “open to all those affected by the decision” (Mansbridge et al. 2010: 66). They are supposed to be open to representatives of all those affected by the decision, but these representatives must be invited to participate. Ideally, committee members would invite members of the public from a wide range of perspectives, but there have been charges that the chairman and his staff “stack” the witness list to favor one side (Bessette 1994: 157). Though a limitation that needs to be acknowledged, I do not think it should foreclose these hearings from a study of deliberative democracy, since I am trying to understand the extent to which Congressional hearings approximate democratic deliberative
ideals. Another possible criticism of these hearings is that they are simply a formality and not truly deliberative. In this regard, I agree with Bessette’s observation (1994) that “[t]he vitality of discussion frequently manifested in committee hearings, especially on significant public issues, and the importance that politically sophisticated actors attach to the thorough and careful preparation of testimony indicate that the hearing process is not generally a pro forma exercise” (157).

I collected all Congressional committee hearings held between 1989 and 2009 whose primary content was deliberation over U.S. human rights policy toward China that I could access electronically. This included all hearings accessible through the LexisNexis Congressional database at the University of California, San Diego and the University of San Diego and through the online database of the U.S. Government Printing Office (GPO Access). I excluded all hearings that were issue-specific, for example, a hearing held on October 17, 2001 entitled “Coercive Population Control in China: New Evidence of Forced Abortion and Forced Sterilization,” since these hearings were not policy-oriented. I excluded all informal roundtables, as opposed to formal hearings, since these were conducted by Congressional staff rather than Congress members and since this format was specific to the Congressional-Executive Commission on China. Of the total universe of 56 hearings that fit these criteria, I was able to access electronic versions of 49 of them. These are the hearings that comprise the data for this study (see Table 2.2).

In addition to Congressional hearings on U.S. human rights policy toward China, I also collected articles from major national newspapers to examine public deliberation in a more publicly-accessible setting. The deliberation that takes place in
newspapers is less dialogical but is more publicly-accessible than the deliberation that takes place in Congressional hearings. *The New York Times* and *The Washington Post* are particularly influential in foreign policy (Merrill and Fisher 1980; Merrill 1995). Print media are preferred over electronic media since they “set the agenda for serious current affairs coverage” and since they are “more dialogic, with debate and advocacy often structured into its activity as a normative component of cultural production” (Smith 2005: 53). Ferree and her colleagues (2002) argue that “general-audience mass media provide a master forum” since they are used in the other forums, since they includes virtually everyone, since they are the major site of political contest, and since media itself are central actors in debates on public issues (10). I used LexisNexis Academic, a searchable newspaper database, to gather all articles from *The New York Times* and *The Washington Post* from 1989 to 2009 retrieved under the index terms “China” and “human rights.” LexisNexis indexes newspaper articles and assigns each index term a relevance score “based on a calculation of how important the concept behind the term is to the document.” I retrieved articles based on a relevance score of 85% or higher for both the index terms “China” and “human rights,” which LexisNexis deems a major term. In addition, I excluded articles from these retrievals that were not primarily about China and human rights. I included editorials and letters to the editor as part of the universe of articles. Based on these criteria, my data includes 1238 newspaper articles (see Table 2.3).

**METHODS**

---

To study how meaning contexts shape public deliberation and how this influences sanctions advocacy, I used a combination of qualitative discourse analytic methods and comparative-historical methods. I used a grounded theory approach to qualitative analysis to examine how people discussed policy (Glaser and Strauss 1967; Strauss 1987; Strauss and Corbin 1990). Since the primary concern of deliberative democratic theory is reason-giving and reason-responding, I coded: 1) the speaker, 2) the favored method of human rights promotion, 3) the justification used, and 4) how others responded to the speaker and his/her justification. To ensure more systematic coding and to make the retrieval of such a large quantity of coding easier, I coded with the aid of a qualitative data analysis program (NVivo). I examined not only what types of reasons and reasoning were present but also what types of reasons and reasoning were considered acceptable by the audience. For Congressional hearings, there is much more reason-responding since these deliberations were face-to-face. For newspaper articles, reason-responding is less frequent but does occur in the form of letters to the editor, editorials, and sources cited who are responding to what others have said. During the analysis stage, I compared the reasoning used by different people and groups as well as studied the interactional, dialogic dynamics. I chose to use qualitative discourse analysis rather than quantitative content analysis because it better captures social and discursive dynamics as opposed to revealing correlations between disembodied statements and static categories.

In order to examine how meaning contexts affect public deliberation, I compared public deliberation in a morally polarized meaning context to deliberation in a morally depolarized meaning context. The morally polarized context is the MFN era
It was during this time that human rights policy decision was framed as a sacred matter, as a matter of principle versus profit. The morally depolarized context is the post-MFN era (2002-2009). In 2001, the U.S. established permanent normal trade relations with China and established the Congressional-Executive Commission on China (CECC) as the new forum for deliberation over U.S. human rights policy toward China. This represents a morally depolarized context since the policy decision was no longer framed as a moral trade-off.

In order to examine how public deliberation affects policy decisions, I also employed a historical analysis of changes in U.S. human rights policy toward China over the course of these 20 years. Since public deliberation is not the only factor that influences policy, I also accounted for how other factors influenced policy decisions. This enabled me to investigate the relative influence of public deliberation. Public deliberation can have a direct impact on policy like in the case of Congressional hearings that precede a policy vote. It can also have a more indirect impact on policy by placing discursive constraints on policymakers, like attaching public meaning to certain policies or forcing the executive to justify its positions in a publicly-acceptable way.
### TABLE 2.1: WEAKNESSES OF EXISTING THEORETICAL PERSPECTIVES ON POLICYMAKING

<table>
<thead>
<tr>
<th>Theoretical Perspective</th>
<th>Weakness</th>
</tr>
</thead>
<tbody>
<tr>
<td>Realpolitik</td>
<td>Cannot account for more complex social and political dynamics, the difficulty of justifying realpolitik to American public</td>
</tr>
<tr>
<td>Positive Theory of Institutions</td>
<td>Cannot explain how law is applied in practice, why Congress utilizes some bureaucratic powers and not others in foreign policy</td>
</tr>
<tr>
<td>Rational Policymakers</td>
<td>Cannot explain the contingent nature of rational reasoning and the variable influence of effectiveness on decision-making</td>
</tr>
<tr>
<td>Interest Groups</td>
<td>Need to better specify how interest groups come into conflict, what specific type of influence they have on policymaking</td>
</tr>
<tr>
<td>New Institutionalism</td>
<td>Cannot explain why some people can think outside the box and offer alternatives</td>
</tr>
<tr>
<td>American Culture/Identity</td>
<td>Cannot explain how values and identity are created and adjudicated in context and in interaction</td>
</tr>
</tbody>
</table>
### TABLE 2.2: CONGRESSIONAL HEARINGS ON U.S. HUMAN RIGHTS POLICY TOWARD CHINA

<table>
<thead>
<tr>
<th>Hearing Title</th>
<th>Date</th>
<th>Committee/Branch</th>
</tr>
</thead>
<tbody>
<tr>
<td>Human Rights and the Rule of Law</td>
<td>October 7, 2009</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>The 20th Anniversary of the Tiananmen Square Protests:</td>
<td>June 4, 2009</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Examining the Significance of the 1989 Demonstrations in China and Implications for U.S. Policy</td>
<td></td>
<td></td>
</tr>
<tr>
<td>What Will Drive China's Future Legal Development? Reports from the Field</td>
<td>June 18, 2008</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Impact of the 2008 Olympic Games on Human Rights and the Rule of Law in China</td>
<td>February 27, 2008</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Human Rights and the Rule of Law in China</td>
<td>September 20, 2006</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Law in Political Transitions: Lessons from East Asia and the Road Ahead for China</td>
<td>July 26, 2005</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>15 Years After Tiananmen: Is Democracy in China's Future?</td>
<td>June 3, 2004</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Religious Freedom in China</td>
<td>November 18, 2004</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Fifteen Years After Tiananmen: Will Religion Flourish Under China's New Leadership</td>
<td>June 3, 2004</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Voices of the Small Handful: 1989 Student Movement Leaders Assess Human Rights in Today's China</td>
<td>June 2, 2003</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>WTO: Will China Keep its Promises? Can it?</td>
<td>June 6, 2002</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Taming the Dragon: Can Legal Reform Foster Respect for Human Rights in China</td>
<td>April 11, 2002</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Hearing on Human Rights in the Context of the Rule of Law</td>
<td>February 7, 2002</td>
<td>Congressional-Executive Commission on China</td>
</tr>
<tr>
<td>Renewal of Normal Trade Relations with China</td>
<td>July 10, 2001</td>
<td>Committee on Ways and Means, House</td>
</tr>
</tbody>
</table>
### TABLE 2.2: CONGRESSIONAL HEARINGS ON U.S. HUMAN RIGHTS POLICY TOWARD CHINA, CONTINUED

<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Granting of Permanent Normal Trade Relations Status to the People's Republic of China and Its Implications on Families, Labor, and Human Rights, Trade and the Economy</td>
<td>July 19, 2000</td>
<td>Committee on Foreign Relations, Senate</td>
</tr>
<tr>
<td>National Security Implications of Granting China Permanent Normal Trade Relation Status</td>
<td>July 18, 2000</td>
<td>Committee on Foreign Relations, Senate</td>
</tr>
<tr>
<td>Granting Permanent Normal Trade Relations (PNTR) Status to China: Is It in the U.S. National Interest?</td>
<td>May 10, 2000</td>
<td>Committee on International Relations, House</td>
</tr>
<tr>
<td>Accession of China to the WTO</td>
<td>May 3, 2000</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Permanent Normalized Trade Relations with the People's Republic of China</td>
<td>April 11, 2000</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>China's Accession to the WTO</td>
<td>April 6, 2000</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>U.S. Consideration of Permanent Normal Trade Relations with China</td>
<td>March 23, 2000</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>U.S.-China Bilateral Trade Agreement and the Accession of China to the WTO</td>
<td>February 16, 2000</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>United States-China Trade Relations and the Possible Accession of China to the World Trade Organization</td>
<td>June 8, 1999</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Human Rights in China</td>
<td>January 20, 1999</td>
<td>Committee on International Relations, House</td>
</tr>
<tr>
<td>President's Renewal of Normal Trade Relations with China</td>
<td>July 9, 1998</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status</td>
<td>June 17, 1998</td>
<td>Committee on Ways and Means, House</td>
</tr>
</tbody>
</table>
TABLE 2.2: CONGRESSIONAL HEARINGS ON U.S. HUMAN RIGHTS POLICY TOWARD CHINA, CONTINUED

<table>
<thead>
<tr>
<th>Topic</th>
<th>Date</th>
<th>Committee</th>
</tr>
</thead>
<tbody>
<tr>
<td>U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status</td>
<td>June 17, 1997</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Renewal of Normal Trade Relations with China</td>
<td>June 10, 1997</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>China MFN: Human Rights Consequences</td>
<td>June 18, 1996</td>
<td>Committee on International Relations, House</td>
</tr>
<tr>
<td>U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status</td>
<td>June 11, 1996</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>China Most-Favored-Nation (MFN) Status</td>
<td>June 6, 1996</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>U.S.-China Trade Relations and Renewal of China's Most-Favored-Nation Status</td>
<td>May 23, 1995</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>U.S. Policy Toward China</td>
<td>May 4, 1994</td>
<td>Committee on Foreign Relations, Senate</td>
</tr>
<tr>
<td>China: Human Rights and MFN</td>
<td>March 24, 1994</td>
<td>Committee on Foreign Affairs, House</td>
</tr>
<tr>
<td>U.S.-China Trade Relations</td>
<td>February 24, 1994</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>U.S.-China Trade Relations</td>
<td>June 8, 1993</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Future of U.S.-China Policy</td>
<td>May 20, 1993</td>
<td>Committee on Foreign Affairs, House</td>
</tr>
<tr>
<td>Extending China's MFN Status</td>
<td>July 30, 1992</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>Additional Requirements on the Extension of China's Most-Favored-Nation Trade Status in 1993</td>
<td>June 29, 1992</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Renewal of MFN Trading Status for the People's Republic of China</td>
<td>June 26, 1991</td>
<td>Committee on Foreign Affairs, House</td>
</tr>
<tr>
<td>China Most-Favored-Nation Status</td>
<td>June 19, 1991</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>Description</td>
<td>Date</td>
<td>Committee</td>
</tr>
<tr>
<td>----------------------------------------------------------------------------</td>
<td>------------</td>
<td>-------------------------</td>
</tr>
<tr>
<td>U.S.-People's Republic of China Trade Relations, Including Most-Favored-Nation Trade Status for China</td>
<td>June 12, 1991</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Most Favored Nation Status for the People's Republic of China</td>
<td>May 29, 1991</td>
<td>Committee on Foreign Affairs, House</td>
</tr>
<tr>
<td>Extending Most-Favored-Nation Status for China</td>
<td>June 20, 1990</td>
<td>Committee on Finance, Senate</td>
</tr>
<tr>
<td>U.S.-People's Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC</td>
<td>June 19, 1990</td>
<td>Committee on Ways and Means, House</td>
</tr>
<tr>
<td>Most-Favored-Nation Status for the People's Republic of China</td>
<td>May 16, 1990</td>
<td>Committee on Foreign Affairs, House</td>
</tr>
<tr>
<td>Year</td>
<td>The New York Times</td>
<td>The Washington Post</td>
</tr>
<tr>
<td>------</td>
<td>--------------------</td>
<td>---------------------</td>
</tr>
<tr>
<td>1989</td>
<td>19</td>
<td>15</td>
</tr>
<tr>
<td>1990</td>
<td>22</td>
<td>18</td>
</tr>
<tr>
<td>1991</td>
<td>23</td>
<td>22</td>
</tr>
<tr>
<td>1992</td>
<td>42</td>
<td>19</td>
</tr>
<tr>
<td>1993</td>
<td>40</td>
<td>39</td>
</tr>
<tr>
<td>1994</td>
<td>88</td>
<td>115</td>
</tr>
<tr>
<td>1995</td>
<td>55</td>
<td>59</td>
</tr>
<tr>
<td>1996</td>
<td>29</td>
<td>30</td>
</tr>
<tr>
<td>1997</td>
<td>58</td>
<td>39</td>
</tr>
<tr>
<td>1998</td>
<td>69</td>
<td>29</td>
</tr>
<tr>
<td>1999</td>
<td>40</td>
<td>19</td>
</tr>
<tr>
<td>2000</td>
<td>29</td>
<td>28</td>
</tr>
<tr>
<td>2001</td>
<td>40</td>
<td>26</td>
</tr>
<tr>
<td>2002</td>
<td>21</td>
<td>8</td>
</tr>
<tr>
<td>2003</td>
<td>11</td>
<td>13</td>
</tr>
<tr>
<td>2004</td>
<td>5</td>
<td>9</td>
</tr>
<tr>
<td>2005</td>
<td>14</td>
<td>9</td>
</tr>
<tr>
<td>2006</td>
<td>14</td>
<td>5</td>
</tr>
<tr>
<td>2007</td>
<td>11</td>
<td>10</td>
</tr>
<tr>
<td>2008</td>
<td>29</td>
<td>29</td>
</tr>
<tr>
<td>2009</td>
<td>18</td>
<td>20</td>
</tr>
<tr>
<td>Total</td>
<td>677</td>
<td>561</td>
</tr>
</tbody>
</table>
CHAPTER 3
PRINCIPLE VS. PROFIT:
SACRED DELIBERATION AND ABSOLUTIST REASONING

In its relations with the Beijing regime, a choice between moral ethics and amoral profits is being mulled by the Clinton administration.


Who could have imagined that so wonkish a subject as trade with China would turn into the kind of overheated political issue that, like abortion and gun control, splits people into noisy warring camps? Lines have been drawn in the sand, with choices reduced to stark either-ors: human rights or expanded commerce, worker protection or globalization.


In 1999, 850 Americans were polled on their views of U.S. trade agreements. They were asked: “Do you agree or disagree with the following statement? Even if tying human rights and other issues to trade agreements does not work, or seldom works, the United States should tie such issues to trade anyway as a matter of principle to pressure these countries to change their policies and do what’s right? Do you agree or disagree?”

In this poll, the decision over whether or not to use economic sanctions as a means to promote human rights was framed as a decision between acting on principle or not. When framed in this way, 76 percent of Americans polled agreed, while only 19 percent disagreed. 5 percent said they did not know.

That 76 percent of Americans agreed that the U.S. should do the “principled” thing even if it would not work reflects a finding in social psychology that when decisions are framed as moral trade-offs, people tend to use absolutist rather than consequentialist reasoning (Baron and Spranca 1997; Marietta 2008). Absolutist

---

15 Ibid.
reasoning is reasoning based on principle without regard to consequences. Consequentialist reasoning is reasoning based on the anticipated effects of the decision. For example, when asked why one should not steal, a response of “because it’s wrong” reflects absolutist reasoning, whereas a response of “because it doesn’t pay” reflects consequentialist reasoning (Marietta 2008).

In the same way that this 76 percent were compelled toward absolutist reasoning as a result of the framing of the decision as a moral trade-off, during the MFN debates policymakers and the public were compelled to support sanctions because the MFN decision was framed as a moral trade-off between principle and profit. In this chapter, I show how the debate over U.S. human rights policy toward China became morally polarized and how this led human rights activists to support sanctions as the “principled” approach. Different types of reasoning are invoked under different circumstances. Rather than assuming a universal type of reasoning, as sociologists we are compelled to understand the social conditions under which different types of reasoning are employed. In the circumstance of moral polarization, people tend towards absolutist reasoning. Tetlock and his colleagues (2000) write, “People who function like intuitive scientists or economists in one setting can be quickly transformed into intuitive moralists-theologians when provoked by assaults on sacred values” (865-67). It was this particular social setting of a morally polarized debate that propelled support for sanctions.

In this morally polarized setting, public deliberation did not mitigate against the effects of absolutist reasoning, rather it fueled it. When the decision was framed as a moral trade-off between principle and profit, reasoning based on “principle” was not
only socially acceptable it was socially valued. Those who opposed sanctions were put on the moral defensive, while those who supported sanctions were unfazed by questions regarding the ineffectiveness of sanctions. Thus, one of the reasons why strong criticisms of sanctions do not deter sanctions advocacy is due to the difficulty of “reasoning” with people who are morally outraged. Rather than providing evidence that sanctions would be effective, backers of the MFN sanction provided lists of China’s human rights abuses, stoking the flames of moral fervor. However, unlike in private reasoning, in public deliberation, acting on emotions is not considered acceptable. Therefore, appeals to expressive reasons for sanctions were only socially acceptable if they were combined with instrumental reasons. Proponents of sanctions had to defend against accusations of acting out of emotional impulse by claiming that they were “acting on principle.” Therefore, in the case of democratic deliberation in a sacred setting, the best policy solution, if defined by effectiveness and ethicalness, does not necessarily arise.

MORAL POLARIZATION

CRITICISM OF PRESIDENT BUSH’S MILD RESPONSE TO TIANANMEN

On June 4, 1989, the Chinese government used martial law to suppress pro-democracy demonstrations in what would later be referred to in the international community as the “Tiananmen Massacre.” It was this incident that spurred both international attention and action toward China’s human rights problems (Foot 2000; Kent 2001; Baker 2002). Despite renewed attention to international human rights in the 1970s, China remained exceptionally absent from the U.S. human rights radar until June 4, 1989 despite the fact that there were human rights problems there (Shirk 1977-
78). Cohen (1987) explains, “Human rights initiatives were assumed to 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” (472, my emphasis). Cohen’s explanation for why scrutiny of China’s human rights violations was absent in the 1970s reflects the centrality of sanctions in the U.S. human rights policy repertoire. When sanctions were not possible then a U.S. human rights policy toward China simply did not exist. The normalization of diplomatic ties between the U.S. and China in 1978, however, began a growth in economic, military, and diplomatic ties that would place it “within the range” of U.S. human rights policy by the time Chinese tanks rolled onto Tiananmen Square in 1989.

Liberal states responded to the crackdown in Tiananmen with a flurry of sanctions. On June 5, the U.S. began with military sanctions, suspending all sales of weapons and exchanges between military leaders. On June 20, the U.S. expanded its sanctions on China to include banning diplomatic exchanges above the level of assistant secretary, suspending the implementation of the Sino-American agreement on nuclear cooperation, and supporting the postponement of any World Bank and Asian Development Bank loans to China. Western allies and Japan followed suit, mirroring the sanctions imposed by the U.S. (Foot 2000; Baker 2002). These actions were consistent with the Foreign Assistance Act of 1961 and consequent amendments which stated that no security or development assistance be provided to the government of any country “which engages in a consistent pattern of gross violations of internationally recognized human rights” (Forsythe 1988: 9-10). These actions were,
in part, dictated by institutional rules. The rationale behind ceasing security assistance was that “[t]he President is directed to formulate and conduct international security assistance programs in a manner which will promote and advance human rights and avoid identification of the United States, through such programs, with governments which deny to their people internationally recognized human rights” (Forsythe 1988: 9). Here we see the dual instrumental and expressive purposes of sanctions. The rationale behind ceasing development assistance was that “the United States should not encourage or reinforce [gross violations of human rights] by economic growth that would benefit the repressive regime” (Forsythe 1988:10).

However, the public, the press, and members of Congress criticized President Bush’s response to Tiananmen as too mild. They called for more serious penalties for Beijing’s actions. At a news conference, one reporter asked, “Mr. President, cutting off military sales to China does not seem to have made an impression on the rulers there, and they’ve become more repressive. What else are you going to do to express the nation’s outrage, and do you have any other plans?”16 This question again illustrates the dual expressive and instrumental purposes of sanctions. They are viewed as a means to both end repression and to “express the nation’s outrage.” To this reporter’s question, President Bush evasively replied, “I think the position we took, aiming not at the Chinese people but at the military arrangements, was well received around the world and was followed by many countries. … right now, we are engaged in diplomatic efforts … And let’s hope that it does have an ameliorating effect on this

---

situation.” Unsatisfied by this response, another reporter asked, “Mr. President, I’d like to return to China for a moment. You mention that your goal is to preserve our relationship with the Chinese Government. But what do you say to the American people who might wonder why we are not more forceful in being the world’s leading advocate of democracy? And are we not living up to that responsibility in this situation?” This reporter frames the American response to Tiananmen as a litmus test of its identity and legitimacy as “the world’s leading advocate of democracy.” As evidenced by this question to the President, many Americans felt that U.S. action toward China’s human rights violations was obligatory, a must, and they felt that President Bush’s actions were not sufficient. These reporters were holding Bush publicly accountable to expressive action, to acting in a way that affirmed U.S. identity.

Bush’s veto of a Congressional bill that would allow Chinese students to stay in the U.S. after their visas expired drew heavy public criticism. The bill was introduced by Representative Nancy Pelosi (D., California) and would allow students four more years to apply for new visas or permanent residency without having to first return to China. It passed unanimously in the House (403-to-0 vote) and passed in the Senate by voice vote. New York Times writer Anthony Lewis framed President Bush’s veto as a choice to “abandon our values and bend his knee to tyranny in

---

17 Ibid.
18 Ibid.
20 Definition of “voice vote” from U.S. Senate glossary on their website: “A vote in which the Presiding Officer states the question, then asks those in favor and against to say "Yea" or "Nay," respectively, and announces the result according to his or her judgment. The names or numbers of Senators voting on each side are not recorded.” http://www.senate.gov/reference/glossary_term/voice_vote.htm
another part of the world.” Mary McGrory of *The Washington Post*, made this framing even more explicit:

> If he pocket-vetoes a bill that would allow Chinese students to extend indefinitely their time here, he will be saying the following: It is okay to use bloody force against peaceful dissidents. It is more important to keep the U.S.-Chinese student exchange program alive than to keep the students alive. Geopolitics is more important than human rights. Double standards and hypocrisy are okay on human rights. … Bush may not intend to make any of the above points, but a pocket veto would admit no other interpretation.  

In contrast, EC members allowed for visa extensions for Chinese students, and the French government even granted political asylum to some of the participants in the democracy movement (Foot 2000: 116).

The public, the press, and policymakers grew even more outraged with President Bush’s early lifting of military, diplomatic, and economic sanctions—some being lifted less than a month after their imposition. When Bush sent two senior aides to Beijing in December 1989, Senate majority leader George Mitchell (D., Maine) called the visit an “embarrassing kowtowing to the Chinese government,” “a mockery to our profession of concern for human rights,” and “inconsistent with our stated ideals.” Holly Burkhalter and Robin Munro of the prominent human rights organization Human Rights Watch (HRW) wrote in an editorial, “This backpedaling

---


on sanctions and ungenerous response to Chinese victims are unconscionable.”²⁴ They argued that the Bush administration should continue to impose sanctions on China:

> The deepening repression, while less visible than the massacres of June, makes economic sanctions even more appropriate today than when they were announced last summer. … Sanctions bills have been passed in both the House and the Senate, and there is a near-unanimous position in favor of a generous response to Chinese visa and asylum seekers. It is time for our government to speak with one voice on its policy toward China, and President Bush should take his cues from Congress.²⁵

Burkhalter and Munro viewed economic sanctions as the *appropriate* response to deepening repression. Notice also that these representatives of HRW were not the originators of this policy option, rather they supported the *Congressional* decision to pursue sanctions. The Administration had to legitimize its actions to an angry public.

The only figure that argued for less U.S. action in response to Tiananmen in the media was Henry Kissinger.²⁶ Representative Stephen Solarz (D., New York), chair of the House Foreign Affairs subcommittee on Asian and Pacific Affairs, criticized Kissinger’s interpretation of what happened in Tiananmen Square as what any government would do and his interpretation of Congressional action as a mere spasm of emotion. He argued that Kissinger, “true to form … appeal[ed] for a policy of amoral Realpolitik by erecting a straw man of a hysterical Congress that, according to him, went way overboard in its response to the Tiananmen Massacre.”²⁷ Instead of “a policy of amoral Realpolitik,” Solarz claimed that “America’s relations with other countries – particularly a Communist country like China – must rest on a solid

²⁵ Ibid.
²⁶ For some reason this article is not in the LexisNexis database.
foundation of public opinion.” Christine Mercer, who identified herself as “a member of Amnesty International and an editorial assistant for an immigration law newsletter,” also responded negatively towards Kissinger’s op-ed. She argued that what happened in Tiananmen was not simply a Chinese domestic matter, as Kissinger claimed, but instead, was a matter of a violation of international law. She wrote, “The domestic and foreign policy decisions of the United States and all self-respecting governments must include adherence to the provisions of the Universal Declaration of Human Rights.” Solarz appealed to the authority of public opinion and Mercer appealed to the authority of international law—UN Declaration of Human Rights. In public deliberation, pure realpolitik reasoning was not acceptable.

Thus, we see that in the immediate aftermath of Tiananmen, the universal response of liberal states was to impose sanctions on China as a human rights violator. The public and governmental debates that ensued were not debates over whether or not sanctions were the appropriate means to address what happened in Tiananmen Square but over how harsh the sanctions towards China should be, how long they should last, and under what conditions they should be removed. President Bush did not have to justify the use of sanctions in response to the crackdown. Instead, he had to justify his use of relatively mild sanctions to a public, press, and policymakers who were asking for harsher penalties for Beijing’s repression.

**THE PUSH FOR A STRONGER RESPONSE: MFN REVOCATION**

---

28 Ibid.
Compelled by what they saw as President Bush’s weak response to the Tiananmen Square crackdown and the lack of human rights improvement in China, some members of Congress began to propose the use of stronger economic sanctions towards China. Specifically, they proposed making the renewal of China’s most favored nation (MFN) trade status contingent upon improvements in human rights.\(^{30}\)

MFN trade status designates the normal trading terms, including low tariffs, which most countries enjoy with the U.S. Because China had a non-market economy, the renewal of its MFN status was subject to annual review by the President. Under the Jackson-Vanik Amendment to the Trade Act of 1974, the President is required to certify that Communist countries allow their citizens to emigrate freely for their MFN status to be renewed. The provisions of the Jackson-Vanik amendment, or Section 402(a)(b) are well-summarized by Forsythe (1988): “The Jackson-Vanik amendment … prohibits the granting of most-favored-nation status as well as U.S. credits, to countries with nonmarket economies that restrict unreasonably the right of emigration for their citizens. The president has the authority to waive these restrictions for twelve months if such a waiver would promote the objectives of the act. Neither the 1974 act nor its legislative history clearly defines unreasonable restriction, and the letter of the statute only pertains to emigration” (74). Although the renewal of China’s MFN status was dependent on an executive order, Congress had the ability to disapprove of the

\(^{30}\) Dittmer (2001) interprets this differently. He describes that attachment of human rights conditions to MFN as follows: “The original linkage of human rights to trade status arose from the happenstance that the crackdown occurred on the night of 3 June, which coincided with the deadline for using China a waiver of Jackson-Vanik. Thenceforth annual MFN renewal (coinciding with the anniversary of the massacre) become a highly effective Democratic symbol in congressional debates on alleged Republican moral insensitivity, of which Clinton would take full advantage” (436). From looking at the discourse, it doesn’t look like MFN was really proposed until the end of 1989. Also, Dittmer interprets this as a partisan issue which I disagree with. Both Republicans and Democrats (though maybe for different reasons—anti-Communism v. human rights) were calling for revoking MFN.
president’s action through a joint resolution of Congress (Pregelj 2005: 7). The president had the power to veto these Congressional resolutions, and the Congress, in turn, could overturn the veto with a two-thirds majority vote in both houses of Congress. This amendment originated as a means to facilitate the emigration of Soviet Jews. From 1980—the year in which China’s MFN status was restored after having been suspended in 1951—there was no debate as to whether or not to renew its MFN status. It was virtually automatic. Yet, in the 1990s, the debate over whether or not to address China’s human rights problems through revoking or conditioning China’s MFN status became the central debate in U.S. human rights policy toward China.

This Congressional call for stronger action in the name of defending American values represents a continuation of a pattern in the legislative-executive relationship. Congress first started intervening in human rights policy in the 1970s in response to what they saw as an amoral and Machiavellian Nixon-Kissinger foreign policy (Forsythe 1988). The establishment of the Jackson-Vanik amendment took place within this climate to “assure the continued dedication of the United States to fundamental human rights” (Forsythe 1988). Congress, thus, provides a check on realpolitik reasoning in the executive.

**Beyond Regulatory Institutionalization**

While there was institutional precedence for attaching human rights conditions to MFN renewal, this action was not dictated by institutional rules, challenging the explanation that policy is primarily determined by legal regulations. Policymakers had to creatively stretch the bounds of Jackson-Vanik in order to claim that they were legally bound to revoke China’s MFN status. Moreover, while trade is one of the
primary areas in which Congress makes its voice heard in foreign policy, it is not the only outlet for Congressional action in foreign policy. Therefore, the use of sanctions cannot be attributed to simply following laws or enacting bureaucratic roles.

**Lawmakers as Lawbreakers: The Jackson-Vanik Amendment to the 1974 Trade Act**

Though proponents of revoking or conditioning China’s MFN status cited the Jackson-Vanik Amendment to the 1974 Trade Act when pushing their position, the actual statute of the law only listed one criterion for renewal—freedom of emigration. This regulation did not strictly dictate the action of policymakers. Rather, an expansion of this law was required to be able to use it as justification for revoking China’s MFN trade status. This expansion is well-illustrated in an exchange between Representatives Amo Houghton (R., New York) and Christopher Smith (R., New Jersey) during a House Ways and Means hearing on June 17, 1997:

Mr. Houghton. The second question is this: If I understand the basis of the Jackson-Vanik waiver, it is if you have freedom of emigration, then the Jackson-Vanik hurdle is no longer there. So are you saying that if the People’s Republic of China is acknowledged to have adequate freedom of emigration, then you would favor the most-favored-nation status?

Mr. Smith. In the eighties, many of us began to look at Jackson-Vanik and its very strict interpretation as not being a very effective tool when it comes to human rights, and the test case for expansion to human rights criteria was Romania. And, as you might recall, Mr. Hall, Mr. Wolf, and I offered the amendments when everybody seemed to be celebrating Nicolae Ceausescu as a man who toed something different from the Kremlin line. Now everybody would acknowledge he was a brutal dictator.

The point is, that we were able to successfully take religious persecution and other issues related to human rights and say that unless there is progress in these areas too, because we do have that flexibility, most-favored-nation states will no longer be afforded to you. …
Mr. HOUGHTON. … Let me ask that question again. If the freedom of emigration status were acceptable to you, would you then no longer object to most-favored-nation?

Mr. SMITH. I would still object …

Mr. HOUGHTON. So in effect-and I just want to understand this … what you are doing is reading more into the requirements of the statute than exists.

Mr. SMITH. There is a precedent for that and the answer is yes, and the President himself did it when he issued his Executive order of 1993 where he had clear criteria and boilerplate language that said significant improvement in human rights.31

Smith, a proponent of revoking China’s MFN status, invoked the flexibility of interpretation of the law to defend his position. He also reasoned that there was already a precedent for this expansion of the Jackson-Vanik amendment requirements to include other human rights criteria.

Other members of Congress invoked the spirit of the law to defend revoking China’s MFN trade status. In a hearing on June 19, 1990, Nancy Pelosi (D., California) contended that restrictions on emigration are indicators of economic and political centralization. She stated, “I urge the subcommittee to adhere to the central tenet of the MFN policy: to increase the price for economic and political centralization.”32 She argued that the actual meaning behind the Jackson-Vanik amendment was that it be a tool to increase the price for economic and political centralization. In a hearing of the Senate Finance Committee on June 19, 1991, Lloyd Bentsen (D., Texas) even more explicitly added democracy as part of the spirit of the Jackson-Vanik amendment: “In 1974, the Congress set freedom of emigration as the standard for determining whether to grant MFN to Communist countries. That

---


standard represents the most basic of human rights. From it flows other human liberties, because no country can allow free emigration, while repressing the democratic hopes and aspirations of its people.”\(^{33}\) Bentsen insisted that free emigration was really a code word for human liberty in general.

Deviance from the official requirements of the Jackson-Vanik amendment may have been met with questions like Houghton’s, however, they were not met with punishment or reprimand. In the course of legislative deliberations, members of Congress who argued that there be a flexible interpretation of the amendment were not seen as illegitimate policymakers for doing so. The institutional requirements were not strong enough to strictly direct the actions of policymakers. In legislative deliberation, legislators massaged institutional requirements to fit their agendas.

During the course of the MFN debates, other policymakers tried to tie other issues to MFN renewal as well, particularly the issues of weapons proliferation and unfair trade. In a 1991 hearing of the Senate Foreign Affairs Committee, subcommittee chairman Alan Cranston (D., California) stated in his opening remarks that there were more reasons in 1991 than in 1990 to deny China’s MFN renewal. He stated, “Democracy advocates continue to be jailed and slave laborers are employed. Weapons of mass destruction are secretly shipped, the genocidal Khmer Rouge continues to be armed, American copyrights are ignored and violated. It is time to send China a strong signal that to be a part of the international system means playing by international rules.”\(^{34}\) In his opening remarks at a House Foreign Affairs

\(^{33}\) Senate Finance Committee, *China’s Most Favored Nation Status*, 102\(^{\text{nd}}\) Cong., 1\(^{\text{st}}\) sess., 1990.

\(^{34}\) Senate Foreign Relations Committee, *Two Years After Tiananmen: An Evaluation of China’s Policy*, 102\(^{\text{nd}}\) Cong., 1\(^{\text{st}}\) sess., 1991.
Committee hearing in 1991, Dante Fascell (D., Florida) similarly called for the consideration of other issues besides free emigration. He stated:

While concern exists about China’s emigration policies, it is a broader issue of widespread human rights abuses in China that remains the focus of congressional attention. … Other aspects of Chinese behavior which caused consternation include reports of copyright and intellectual property rights infringement, missile technology transfers, the use of forced labor on goods imported into the United States, and a whopping trade imbalance with the United States. All of these issues come into play in the debate over whether to renew MFN status for the PRC. 35

Citing the same big three issues of human rights, security, and trade, in a 1996 hearing of the House Committee on International Relations, Nancy Pelosi (D., California) contended:

There are many reasons to deny MFN to China. Some people think that we should not link human rights with trade. I disagree. However, even if you agreed with them, on the issue of trade alone, MFN should be denied because of the barriers to U.S. products going to China and the lack of reciprocity on the part of the Chinese. We give preferential trade treatment to one-third of China’s exports, which flood our markets, and they allow into their marketplace on 2 percent of U.S. exports. Where is the reciprocity? Why Most Favored Nation status for them and trade barriers to the China market for us? The issue of proliferation is another reason that would justify a no vote on MFN for China. … On the basis of human rights, on the basis of trade, and on the basis of proliferation, on any one of these bases I believe that MFN for China should be denied. 36

Jackson-Vanik evolved into a one-size-fits-all solution for a number of problems the U.S. was confronting with China. Its effectiveness may be questionable from this point of view alone. How can the same exact solution prove to be effective for solving

36 House International Relations Committee, China MFN: Human Rights Consequences, 104th Cong., 2nd sess., 1996.
everything from human rights problems to trade problems to security problems? What this clustering of problems under one umbrella solution also seems to indicate is that the solution seems to precede the problem in that once a “solution” arises, policymakers try to attach a number of other problems to it, not quite the canvassing of solutions that the rational choice version of policymaking assumes.

Pelosi’s proposal of tying China’s MFN renewal to human rights, trade, or proliferation issues prompted a red flag from E. Clay Shaw (R., Florida). Referring to the trade deficit, Shaw asks, “[B]ut is it part of the Jackson-Vanik? Is it involved in that? Is that supposed to be involved? Look at the statute. Does the statute say anything about the balance of trade? I think not. I think it talks about human rights.” Interestingly, Shaw accepts the broader “human rights” interpretation of MFN but questions the linkage to trade issues. Given that the major opposition to revoking or conditioning China’s MFN status came from those worried about the economic costs, Pelosi tried to reason with opponents on a strictly economic basis at times. She responded to Shaw’s claim that she had overstepped the statute of the law saying, “This Subcommittee has a responsibility to the American economy and to the American work force. We cannot hide behind the chapter and verse of a bill to say that we will not consider what is happening in this trade relationship when Members of this Subcommittee and those who advocate not using MFN as a tool always point to the number of U.S. jobs that are tied to United States-China trade, indeed, they are doing so even here this morning.” She averted Shaw’s criticism of not following the

37 Ibid.
38 Ibid.
statute by referencing larger aims, not “hiding behind the chapter and verse of a bill,” and the need to respond to opponents who argued that MFN revocation will be too costly. Those who deviated from the letter of the law, like Pelosi, had an arsenal of defenses for doing so. Amo Houghton (R., New York) also questioned the linking of so many issues to MFN renewal. He disagreed with Pelosi, stating, “I guess there are three basic issues here. One is trade, the other is weapons, and the third is human rights. It seems to me that they are all important, they affect all of us in our daily lives, and they should be looked at, but rather than throwing the whole cloak of most-favored-nation over it, can we not deal with those as we do with other countries, on an individual basis.” 

Pelosi indirectly responded to Houghton by referencing the frustrating history of the MFN debate and the inability to formulate a version of MFN conditioning that opponents would accept. Those who argued for “throwing the cloak of MFN” over other issues were the same people who argued that MFN should be revoked on a human rights basis.

Congressional human rights advocates like Pelosi successfully turned the debate into one that was no longer about freedom of emigration but about human rights promotion. As seen above, even Shaw an opponent of MFN revocation accepted the human rights interpretation of Jackson-Vanik. Even those who defended renewing MFN on the basis of China meeting the freedom of emigration requirement, namely representatives of the Bush administration, felt it necessary to defend their position in other ways. For example, in a hearing on June 12, 1991, Deputy Secretary of State Lawrence Eagleburger declared that China had met the freedom of emigration

\[39\] Ibid.
requirements of Jackson-Vanik, yet he also acknowledged that for opponents of renewal this was not enough and, therefore, also sought to defend the renewal in other ways. He stated, “In our view, there is simply no doubt that China’s emigration policy meets the objective of the law on MFN status. While that judgment might end the debate under most circumstances, we recognize that in this case it does not. Let me turn, therefore, to why MFN makes sense in the context of our overall China policy.”

Thus, Eagleburger is forced to justify the administration’s decision to renew MFN in the language set by legislative deliberations.

CONGRESS: NOT JUST THE POWER OF THE PURSE

If legal requirements themselves did not dictate the particular actions of Congress, then perhaps it was their bureaucratic role that prescribed a certain form of action. It is possible that the powers of Congress are defined in such a way that it must use sanctions to get its foreign policy views across. Lampton (2001) explains in the case of China policy, “The growing importance of economic ties with China, combined with receding security concerns (in the aftermath of the cold war) and the mobilizing effect of Tiananmen, increased Congress’ role in making China policy. The U.S. Constitution vests Congress with significant powers in the trade arena (e.g. to set tariff levels)” (11). Thus, we see that in the case of the debates over what to do about China’s human rights violations, many of these debates were taking place not just in the House Foreign Affairs Committee and the Senate Foreign Relations Committee but also in the House Ways and Means Committee and the Senate Finance Committee. Yet the actions that Congress is constitutionally-authorized to take in the realm of

---

foreign policy also include the Senate’s power to grant or withhold its consent to treaties, the power to declare war, the power to appropriate money, and the power to make procedural changes (including creating new agencies and positions in the executive branch, allowing new participants in policymaking, enacting legislative vetoes, creating new procedural requirements, and creating reporting requirements) in addition to the power to regulate foreign commerce (Lindsay 1994). Congress can also exert influence through non-legislative means, including congressional diplomacy, executive-legislative consultations, and the framing of public and elite opinion (Lindsay 1994). Why did members of Congress use the power to regulate commerce to promote human rights rather than the power of appropriations to fund technical assistance programs? The answer lies in how the MFN decision was framed.

**Framing the MFN Decision as Principle vs. Profit**

The media framed the annual MFN decision as a decision between principle and profit, with sanctions being the principled choice. As we saw earlier, this framing had its roots in Congressional frustrations with Bush’s amoral reaction to Tiananmen and it continued into the Clinton era. One journalist wrote of the MFN decision: “In its relations with the Beijing regime, a choice between moral ethics and amoral profits is being mulled by the Clinton administration.” Another journalist characterized the lobbying efforts surrounding the MFN debate as “an extraordinary struggle pitting executives against former torture victims and prison camp survivors and persecuted

---

Christians in competition to win the attention of Congress and the Administration.”

Thomas Friedman called the decision “the culmination of a titanic clash between America’s global economic interests and Washington’s self-image as the leading advocate of human rights.”

Washington Post journalist Hobart Rowen wrote, “The bottom line is that America will appear to be putting business ahead of human rights whatever Clinton does, unless he makes good on his pledge to cancel MFN for China.”

Chinese human rights activists in the U.S. embraced this framing as well. During a 1994 hearing, Heping Shi, Vice President of Independent Federation of Chinese Students and Scholars, argued, “[T]he moral principle of safeguarding human dignity should not be compromised for economic contingencies. Unconditional renewal of China’s MFN may result in higher profits for some U.S. corporations, but it will certainly not command the respect of the United States as a country that claims to value human lives above everything else.”

In the same hearing, Haiching Zhao, president of the National Council on Chinese Affairs, reasoned: “There is a dangerous message in a U.S. decision to ignore China’s political oppressiveness in favor of trade. Caving in on linking human rights to trade gives China’s leadership exactly the legitimacy it craves and would validate the notion that the United States

---

45 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
46 Haiching Zhao’s description of the National Council on Chinese Affairs: “an organization that promotes human rights improvements and political reform in China, encourages the development of a market economy in China, and protects the rights and promotes opportunities for Chinese nationals living in the United States.”
should tolerate political repression as long as doing so yields economic benefits. The integrity of American foreign policy should not be totally surrendered to commercial considerations.47 These Chinese activists demonstrated great finesse in appealing to America’s identity as a defender of human rights in their framing of the MFN decision as a decision of American principle versus American profit. In a 1991 hearing exiled dissident Fang Lizhi also challenged Americans to stick to their principles. He stated:

As I understand it, the United States of America is a country that is dedicated to the founding principles of human rights and rule of law. The reason why America is respected by many Chinese is that some of its actions accord with these principles. It should follow that any foreign policy action by the American authorities that employ a double standard or multiple standards, violate the founding principles that the American proclaims and may harm, or even destroy, the respect that American enjoys in other countries.48

In response to a statement by Donald Anderson of the U.S.-China Business Council that MFN should be extended so Americans could take advantage of the economic opportunities there, Chinese-American human rights activist Harry Wu exclaimed, “… what about principle? You are talking of money, talking about job opportunity. People violate the law. Do you want to earn money off people like me? I spent 19 years in Chinese jails. I grew cotton, grew grapes, and who wants the money that comes from those grapes and cotton? What about principle? Where is principle?”49

American exceptionalism in its concern for human rights was celebrated in the debates and activists placed pressure on their Congressional audience to uphold this

47 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
reputation. This pressure is well-illustrated through the testimony of Lodi Gyari of the International Campaign for Tibet:

But I think it is very important for the United States Government, for the Congress to keep in mind that you are not like any other nation. That is why you have so much respect. That is why some people look to this Government, this Congress for hope, because your nation was founded differently. Your nation was founded on certain principles, and it is that which gives much hope and inspiration to millions of people throughout the world.

We get inspiration when we visit the Jefferson Memorial. We read his words, and to me as a Buddhist sounds very much like some of the teachings of our own great scholars. …

There are some other nations who do not, even hypocritically talk about moral values. They have their own different values, and with those, I will not quarrel. … you are different from others, that you have principles to which you are committed.50

Gyari’s testimony adeptly appeals to American identity and symbols—“you are not like any other nation,” “your nation was founded differently,” “your nation was founded on certain principles … which gives much hope and inspiration to millions of people throughout the world,” “we get inspiration when we visit the Jefferson Memorial,” “you have principles to which you are committed.” He was telling Americans that this decision was essentially about whether or not they would live up to their national identity as a nation founded on certain principles. Thus, we see that it is not only Americans who are holding American policymakers accountable to “American values” but also Chinese and Tibetan activists.

Religious groups also invoked the principle versus profit framing. In a 1997 hearing, the U.S. Catholic Conference declared their support for MFN revocation.

John Carr of the U.S. Catholic Conference stated, “The Catholic bishops believe that

the House vote on MFN for China is not really about China’s trade status; it is a test of American principles and priorities.” Carr shifted the discussion of MFN into the sacred realm, saying that it was not just a profane decision about trade but a sacred decision about American principles and priorities. At the same hearing, Gary Bauer of the Family Research Council, an evangelical Christian organization that promotes marriage and family, also supported the revocation of China’s MFN trade status on the basis of American values. He asserted, “I am suggesting that we set American trade policy to reflect American values. That is what is at issue here. China can listen to you or listen to me; maybe they will, maybe they won’t. But we are making American trade policy, and I believe that American trade policy ought to be built on American values.” While these arguments come from religious sources, their justifications are based on American principles rather than religious principles. Carr and Bauer demonstrate appeals to “public reason,” in that while they also represent religious groups, they do not appeal to religious authority but rather the cultural authority of American principles.

One of the only religious groups to support the extension of permanent normal trade relations to China was a group called East Gates International, led by Ned Graham, son of Billy Graham. During a 2000 hearing, Graham stated:

I believe that granting China PNTR and China’s accession into the WTO will only encourage China’s continued engagement with the global village, increase the availability of information, exchange technology to its citizens, accelerate its development of the rule of law, and allow for increased contact between the U.S. and Chinese citizens, and will ultimately lead to positive changes in China’s implementation

---

52 Ibid.
of its religious policy. This will inevitably serve to benefit China’s religious practitioners and the Western organizations seeking to serve them. Most importantly, it is my belief that granting China PNTR before China’s accession in the WTO will help diminish the negative perceptions that exist between our two great countries.  

Graham used the consequentialist reasoning that granting China PNTR would lead to an openness and exchange that would “inevitably serve to benefit China’s religious practitioners and the Western organizations seeking to serve them.” However, Graham and his organization were in the clear minority among religious organizations testifying in the hearings, most of which preferred a denial of MFN and PNTR. Members of the administration actively tried to identify members of the religious community who were in favor of MFN and PNTR to give their side moral legitimacy.  

While this contributed to a wider range of perspectives in legislative deliberation, at the same time, it was restricted by the availability of these perspectives in the public sphere. Although further evidence is needed, it seems like the divergence of religious groups’ stances on MFN and PNTR stemmed from whether or not it was a religious group that was actively working on the ground in China. East Gates and China Outreach Ministries, another religious group that was for MFN renewal, were actively involved with programs in China, while the U.S. Catholic Conference and Family Research Council were more removed.  

Surprisingly, mainstream human rights organizations like Human Rights Watch never appealed to American principles as the reason why MFN should be revoked. I could not find a single instance in which a mainstream human rights activist used the principle versus profit framing. My speculation is that the international nature

---

54 Richard Madsen, February 1, 2011, personal communication.
of human rights groups like HRW prevented them from making arguments and appeals based on “American principle.”

While U.S. human rights activists did not use the principle versus profit framing, labor unions and the AFL-CIO consistently used this framing in Congressional debates. In a 1992 hearing, Lane Kirkland, president of the AFL-CIO, eloquently framed the debate as one between principle and profit:

We can argue for hours on these practical issues of trade and markets, and on our contention that MFN for China is clearly not in our country’s best economic interest. But, when comes right down to it, is this not, above all, a moral issue? Somewhere, buried under the discourse on what is good or bad trade policy, and amid the struggle for capital and markets, is there not a basic question about what is right and what is wrong? Should not we, at some point, take a stand in favor of the common rights of humanity rather than the divine right of markets? … Are the American ideals of democracy and justice and basic human decency not worth something more than the profits for a few derived from the exploitation of the repression of a billion people? We think so.  

Kirkland moralized the MFN decision, saying it was not about trade but “above all, a moral issue.” He clearly asserted that the AFL-CIO was on the side of sanctions because they were on the side of democracy, justice, and basic human decency.

Claiming both the backing of law and morality, during a 1993 hearing, Philip Fishman of the AFL-CIO claimed, “As in the past, however, proponents of MFN for China will argue that law and morality should be overlooked in the interest of realpolitik and corporate profit.” Again, we see a public check on realpolitik reasoning and acting based on material interests. Later in his testimony, Fishman argued, “Now is the time to stand on principle and do what is right. The AFL-CIO is ready to work with the

Congress and the administration to develop a strong, principled response to continued Chinese repression. The strongest response-the right response-is to stop the travesty of extending Most Favored Nation status to the People’s Republic of China.”

Fishman framed the decision as one between right and wrong, where revoking MFN was “the right response.”

The appeal to principle above profit was popular among legislators who were supportive of MFN revocation. This framing was present from the beginning of the debates and persisted throughout the debates. In a 1990 hearing, Representative Nancy Pelosi (D., California) presented the either-or decision in these terms:

[I]f our policy is strictly a mercantilist policy, then I think that [the suggestion of trade associations] should be followed by this Congress. But if we make any pretense at being supporters of principle and human rights across the world, then we have to make some statements about it. So if, in fact, we don’t want to have human rights or emigration policy or any notions about a centralized economy, and the freedom that is implied in that, to be part of our policy, then we don’t we just say so. But we shouldn’t pretend that our policy is based on principle.

Pelosi did not accept justifications by opponents of MFN that they, too, were acting on principle. She insisted that they were simply mercantilist and should at least admit to it. In the same hearing, Representative Don Pease (D., Ohio) claimed that it was this willingness to sacrifice economic interests to human rights interests that defined the U.S. He stated, “One of the reasons why the United States is looked upon as a model across the world, is not only our Constitution, not only our Bill of Rights, not only the fact that Americans are free to burn the flag if they want as a form of free expression,

57 Ibid.
58 House Ways and Means Committee, United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC, 101st Cong., 2nd sess., 1990.
but because sometimes we take principled standards on human rights, even when it is not in our best interest to do that.” Pease appealed to core American symbols—the Constitution, the Bill of Rights, the freedom of speech—to make the decision not just a mundane trade issue but an issue of American identity. The American willingness to sacrifice economic interests was proudly worn as a badge of honor.

This principle versus profit framing not only persisted across time but also stretched across party lines. Some see the appeal to “values” as a Republican form of reasoning, but in the case of the debate over MFN, Democrats and Republicans alike appealed to American values. Representative Tom Lantos (D., California), stated, “[A]s a professional economist who, for more years than I would care to remember, taught international economics, nothing pains me more than to fly in the face of free trade principles. But there are issues more important than free trade principles.” Representative Gerald Solomon (R., New York) proclaimed during a 1995 hearing: “[Our partnership with China] reveals that some elements in the American business community-and this is coming from this probusiness conservative Republican-it reveals that some elements in the American business community are so anxious to make a quick buck in China and their supporters in government are so anxious to curry favor with the dictators in Beijing, that there is no policy or practice carried out by the Chinese Communist regime that we are not prepared to tolerate in the interests of preserving business as usual. I resent that.”

59 Ibid.
60 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
In their framing of the MFN decision as a decision between principle and profit, Lantos and Solomon are also careful to affirm their support for free trade.

Though proponents of revoking or conditioning China’s MFN trade status framed their approach as the moral option, opponents vigorously refuted this framing. The most vocal opponents of this framing were business representatives in Congressional hearings. Testifying in a 1994 Congressional hearing, Robert Kapp, President of the U.S.-China Business Council, argued, “[T]rade versus human rights is a completely false dichotomy. It has no validity. It is a headline writer’s and subheadline writer’s tool in little indented heads and articles, but in fact ‘trade vs. human rights’ is a false dichotomy that legislators and policymakers should simply reject once and for all.”

Kapp blamed the media for creating this false dichotomy. His passionate refutation of this framing displays how resonant this frame was in public and how much it had come to affect legislative deliberations.

Those who opposed this framing were still forced to maneuver around it. In an exchange between Senator J. Robert Kerrey (D., Nebraska) and Secretary of State Madeleine Albright during a 1997, we can observe how public accountability constrains policymakers when decisions are moralized. Kerrey asked Albright how he should respond to constituents who were calling him urging him not to support MFN:

KERREY: Madame Secretary, my phone has been ringing a lot on China, and most of the calls are coming in urging me not to support MFN. And most of the calls have some sort of script that they’re reading. And they’re much concerned about human rights. And that’s the dominant concern.

---

I must say I very much appreciate that increased attention people in my state are paying to human rights. And my state benefits enormously from trade with China. And I know that in your testimony, you say that our policy has not failed, at least in that regard. Can you help me with what you think I should be saying to people in Nebraska when they call up and talk to me about how our trade policies, if not, or our overall policies with China have not resulted in improvement in their treatment of their own citizens? 

First, reflect on this image—everyday people in Nebraska calling their Senator about foreign trade policy! They are not calling because of their economic concerns; they are calling because of their moral concerns. Why? Because moral trade-offs, sacred decisions, stir public participation (Marietta 2008). Citizens were processing the MFN decision through the principle versus profit frame and holding their representatives accountable to this frame. Policymakers who supported MFN renewal were placed on the moral defensive and had to find a way to justify continued trade in moral terms.

Albright instructed Kerrey to re-frame the debate for his constituents. She responded, “[I]t is very important for your constituents and other Americans to understand what this debate is about. It is about whether to have normal trading relations with a country that has 1.2 million people and that is important to the United States for strategic reasons. This debate, to a great extent, comes down in the popular media to a discussion of trade versus human rights. And that’s not what it ought to be about.” 

At the same time that Albright tried to re-frame the debate, she also recognized the need to justify the administration’s policies in human rights terms. She stated, “[T]o do a trade-off here is, I think, a mistake in terms of how this discussion is

---

64 Ibid.
portrayed. But I do respect those who are concerned about human rights in China. I have been and continue to be myself. But I think the issue here is what the right tool is. And we will pursue trying … to get China to improve its human rights record, whether it’s through the United Nations, or through continued sanctions as a result of the Tiananmen Square … incident.” Even if the administration did not buy the principle versus profit framing, they still needed to make their policy speak to an audience that did. Therefore, she cited other sanctions as evidence of the administration’s concern with human rights in China. Responding to Albright, Kerrey declared, “But, I mean, I guess what impresses me, Madame Secretary, is that people are saying: We understand that we get tremendous benefits in the trade. But we’re willing to pay a price.”⁶⁵ Thus, even though Albright had put all this discursive effort into re-framing the debate, Kerrey did not make the normative shift. He retained the moral framing and stated that his constituents were willing to pay the price.

While people like Kapp and Albright maintained the media had falsely created the dichotomy between principle and profit, it did not appear to be a matter of simple sensationalistic journalism. Journalists cited governmental sources to inform their articles. For example, John Yang of The Washington Post quoted Senator Jim Bunning (R., Kentucky) as stating, “This debate is about principles – human rights, human dignity … and whether we put trade before people and profits above principles. … We can’t allow the brutal denial of human rights to remain unnoticed or unanswered.”⁶⁶

---

⁶⁵ Ibid.
Legislators were using this frame to process the decision as well and were active in propagating this frame.

**NOT JUST THE MEDIA: SYMBOLIC ASSOCIATION IN ACADEMIC LITERATURE**

The symbolic association of a willingness to use sanctions with the degree of a country’s commitment to human rights is also evident in the academic human rights literature. In his assessment of states’ human rights policies, Donnelly (2000) measures the “intensity of states’ commitment to human rights by the interests they are willing to subordinate” (322). He uses state responses to the 1989 Tiananmen Square massacre to illustrate this. He contrasts the U.S., Japan, the Netherlands, and the U.K.:

Most states that had substantial economic relations with China did adopt aid, trade, or investment sanctions. Japan did so with considerable reluctance, great inconsistency, and for the briefest possible period – yet with real costs to Japanese firms. The United States, by contrast, responded with sufficient vigour that economic sanctions were the central issue in U.S.-Chinese relations until 1994, and a major irritant into 1997. The Netherlands and the United Kingdom took something of a middle course, in the context of a broader European response (Donnelly 2000: 322).

Therefore, he assesses the willingness to impose economic sanctions, subordinating economic interests to human rights interests, as an indicator of a states’ commitment to human rights. Donnelly (2000) concludes that “[i]n most countries, the single greatest contributor to more effective international human rights policies would be to increase the priority of human rights relative to other foreign policy objectives” (331). But, if increasing the priority of human rights relative to other foreign policy objectives means the greater use of economic incentives and disincentives, then it is not clear that this would be more effective.
Other scholars make a similar connection between the willingness to use sanctions for human rights purposes and a state’s commitment to human rights. Foot (2000) argues, “The competing interests of governments, especially when those they confront are as powerful as China, undermine their willingness to sustain roles as consistent promoters of human rights norms” (8). Yet, this is only the case if the primary way to demonstrate commitment is through sanctions. Comparing the U.S. and Norway, Egeland (1988) argues that small states like Norway have more efficient and effective human rights policies because they have fewer conflicting interests. When comparing their willingness to sacrifice economic interests, however, Egeland (1988) concludes that the U.S. and Norway are both reluctant yet more willing than other states. He writes, “When economic and human rights interests seem to clash, the cost-benefit considerations have also been relatively similar in the United States and Norway. Neither is normally willing to make a major unilateral economic sacrifice. But both have more than other western, industrialized nations opted for limited material sanctions to further human rights objectives” (180). Baker (2002) points to the case of South Africa as the first instance in which the U.S. put human rights above other interests. He writes, “The CAAA [the Comprehensive Anti-Apartheid Act of 1986] turned U.S. policy on its head. Human rights concerns were given primacy over geopolitical and economic interest for the first time in U.S. history” (Baker 2002: 92). All of these assessments of a states’ use of sanctions are positive, equating their use with a firm commitment to human rights.

Scholars also give credibility to sanctions in more subtle ways. In her comparison of countries’ human rights policies, Brysk (2009) speaks of sanctions as a
sign of a country’s commitment to human rights. For example, she states of Sweden, “Although Sweden does not currently follow up its criticism with bilateral sanctions, in a few situations of humanitarian crisis, Sweden has vigorously coupled diplomatic condemnation with a package of humanitarian aid, mediation attempts, and refugee protection beyond the multilateral norm” (Brysk 2009: 45). Brysk suggests that the greatest sign of commitment to human rights is bilateral sanctions. She lists “humanitarian aid, mediation attempts, and refugee protection” as less powerful indicators of human rights commitment. The human rights literature is rarely critical of sanctions as ineffective and counterproductive.

In the post-Cold War era, many policymakers and scholars have asserted that the main tension in foreign policy is now between human rights and economic interests. Dittmer (2001) writes, “In place of the Cold War correlation between ideology and interest, a new tension has arisen between human rights and economic interdependence” (2001: 455). Thomas Friedman quotes Winston Lord, Assistant Secretary of State for East Asian and Pacific Affairs in his 1994 article on “Trade vs. Human Rights” stating, “There are still security considerations, but increasingly the thrust of the debate in foreign policy today is economics versus human rights.”67 This tension between economics and human rights is also evident in the EU. Baker (2002) writes that “[i]f alternative policies [to the ineffective policy of private dialogue] is to be adopted, one of the greatest difficulties faced by the EU CFSP [Common Foreign and Security Policy] will be to persuade member states to stick with a policy based on

---

principle even when the commercial interest of the country concerned may be at stake” (2002: 63). Sanctions are seen as the “policy based on principle.”

This clash between economic interests and human rights is generally seen as inevitable or natural due to increased economic interdependence and a rise in human rights ideology. Dittmer (2001) explains:

As both ideology and military security slipped in relative importance in the wake of the Cold War, the importance of economic interests escalated concomitantly. Trade having become a leading economic indicator in all prospering economies, competition for markets intensified—a competition that has become, with the fall of iron and bamboo ‘curtains,’ ideologically promiscuous. This made it more likely that there would be ‘contradictions’ between material and ideal interests: as trade shifted from the North Atlantic to the Big Emerging Markets (BEMs), human rights violations could more easily be found among leading trade partners than during the Cold War (456).

However, the fact that human rights violations could more easily be found among leading trade partners does not actually explain the tension between economic interests and human rights. Thomas Friedman, in a New York Times article entitled “Trade vs. Human Rights,” claims that the reason for this clash between trade and human rights is “all in the numbers.” He reasons, “In 1970, United States merchandise exports were 4.2 percent of the gross national product and merchandise imports were 3.9 percent. Today, merchandise exports are 7.2 percent of G.N.P. and imports 9.3 percent. Labor Department statistics indicate that American jobs related to exports pay, an average of 20 percent more than those focused exclusively on the domestic economy.”68 But, how do these numbers really explain why the debate came to center around trade versus human rights? While increased economic interdependence and a rise in human rights

ideology might provide an international environment with more opportunities for tensions between economic interests and human rights to arise, a clash between these two interests was not inevitable. In other words, economic interdependence and a rise in human rights ideology are necessary but not sufficient conditions to formulate a clash between economic interests and human rights. The reason why human rights interests clash with economic interests is because they are framed as clashing interests and sanctions framed as the principled response.

**ABSOLUTIST REASONING**

Social psychological experiments have shown that when a decision is framed as a moral trade-off, people tend to apply absolutist rather than consequentialist reasoning (Baron and Spranca 1997; Marietta 2008). The tendency toward absolutist reasoning when faced with a moral trade-off is evident in the MFN debates. For example, Representative Dana Rohrabacher (R., California), a proponent of revoking MFN, argued during a 1994 hearing:

I have had to look at people in my district who deal with China and have come to me and said, ‘Dana, this is going to cost jobs in your district. It is going to be harmful. If we do not have Most-Favored-Nation status for China, we are going to lose this contract and this contract.’ And I have had to look them right in the eye and say, ‘This is the right thing to do. It is not right for us to make money from a regime that is murdering its people and killing, forcing women to kill their babies and putting anybody in jail who speaks up against the regime.’ … I tell them, ‘You will have to vote against me if it means that much to you.’ And I think we all have to look at each other and say ‘We are the ones who are determining what America is all about.’ And I think nowhere is that going to be more clear than the decision we make on Most-Favored-Nation status in these next few months because we have drawn the line in the sand, we have made our stand and if we back down from it, the world will know and especially the Chinese leaders of the gang that rules the mainland of China now, they will know that
we really were not serious all along, unless we stand up for what we, ourselves, have said are our own standards.69

Rohrabacher’s justification that sanctions should be employed because they are the right thing to do reflects absolutist reasoning. He is not concerned with whether or not this will actually help the situation nor is he concerned with what his constituents think. His reasoning is based on a list of human rights atrocities—“murdering … people and killing, forcing women to kill their babies, putting anybody in jail who speaks up against the regime”—and the need to define American identity as based on human rights principles. During a 1993 hearing, Representative Gary Ackerman (D., New York) also eschewed consequentialist reasoning in favor of absolutist reasoning. Speaking to Donald Anderson, President of the U.S.-China Business Council, he insisted, “It is not really a question of profit. I don’t care what the numbers were that you used, whether you lose $2 billion or $10 billion. That is not the issue. The issue, as Mr. Wu rightly points out, is indeed principle. We have certain principles that we believe and stand for and that most of the world of free peoples believe in as well, that no one has the right to suppress somebody else.”70 As Ackerman illustrates, when the issue becomes a matter of “principle” then the consequences are irrelevant—“whether you lose $2 billion or $10 billion.” Standing on principle was not just a Republican or Democratic trend; it was valued on both sides. Representative Christopher Smith (R., New Jersey) commented during a 1996 hearing: “I think this again shows the best of a bipartisan effort to try to stand up for basic principles and for fundamental values,

---

especially when they are so gravely threatened and actually harmed by our facilitation.”

**ACTING ON PRINCIPLE ACCEPTABLE/VALUED/REQUIRED**

The virtue of acting on principle was never questioned. Even those who opposed the revocation of MFN claimed that the U.S. should act based on principle and promote human rights in China. Everyone participating in the debate affirmed this. During a 1991 hearing, the chairman, Representative Stephen Solarz (D., New York), even asked all of the witnesses to publicly affirm this:

Mr. SOLARZ. First of all, I will ask you to go left to right and answer as briefly but persuasively as possible, would you agree that the promotion of human rights in China is a legitimate objective of American foreign policy?
Mr. LORD. Yes.
Mr. SOLARZ. Mr. Holbrooke.
Mr. HOLBROOKE. Yes.
Mr. FRIEDMAN. Yes.
Mr. FANG. Yes.
Mr. ZHAO. Certainly.
Mr. SOLARZ. So there is clear agreement on that.

Winston Lord, a former U.S. Ambassador to China, Edward Friedman, professor of political science at the University of Wisconsin, Fang Lizhi, a well-known Chinese dissident, and Haiching Zhao, chairman of the International Federation of Chinese Students and Scholars were all in favor of human rights conditions on MFN renewal. Richard Holbrooke, former Assistant Secretary of State for East Asia and the Pacific, was not in favor of human rights conditions on MFN renewal. As indicated by Solarz’s request that they all answer “as briefly but persuasively as possible,” the goal

---

of this question was to affirm the universal importance of values as a guide to U.S. foreign policy. Realpolitik reasoning was not acceptable in American public deliberation.

Thus, when opponents framed their opposition to human rights conditions on MFN they had to frame their opposition as a question of means not ends. After longtime human rights warrior Representative Frank Wolf (R., Virginia) listed the human rights violations that were occurring in China during a 1995 hearing, Representative Jim Kolbe (R., Arizona) affirmed that though he opposed MFN revocation, he was just as horrified by China’s human rights violations. He argued that he disagreed with the means not the ends:

> Does this mean that I do not care about the kinds of things we have heard here this morning about human rights in China? No. Absolutely nothing could be further from the truth. The issue is not whether we support basic human rights for people in China and elsewhere in the world. All of us that are here today support those goals. The issue is how we can best promote those human rights. The issue is not one of the statistics we heard, but rather it is about the policy that we should use. None of us would disagree with many of the descriptive and horrible things that we have heard from Mr. Wolf that are going on in China. The question is, what can we do about it? 

Kolbe’s statement points to a common dynamic during the debate which was for proponents of MFN revocation to justify their policy stance by giving a litany of the human rights abuses occurring in China. Prior to Kolbe’s opening statement, Wolf had given an impassioned speech on China’s continued human rights abuses:

> We know delinking has been a total immoral failure. It just has not worked.
> Look at all the cases. Slave labor is increasing and goods coming into this country made by slave labor are increasing. The MOU

---

(Memorandum of Understanding) has totally failed. … We also know that persecution of human rights has increased. It has gone up. We know with regard to the nuclear testing that it has not worked. We know they are selling weapons to terrorists in the Middle East. … We also know, with regard to religious persecution, it has increased. On Monday or Thursday, 140 Christians were in a church and they were raided, taken away, and many of them have not been found. … On Easter Monday, the day after Easter, they came and took a Catholic Priest away …

The Dalai Lama and Buddhists in Tibet are being plundered. … We know now that since we gave them MFN, they are killing up to 10,000 young men a year, taking them out of prison, putting a bayonet in their back where they stiffen up, shooting, firing until they drop to the ground. … They cut them open and they sell their kidneys for $30,000 apiece. …

Then, the other week, a person came in my office, just back from China, and brought in pictures which I did not want to bring because of the graphic nature. To show that what they are now doing in Chinese Government hospitals is they are selling aborted fetuses, aborted babies for human consumption, to eat, to eat! … This is parallel-strong statement coming-this is parallel to what the Nazis in Germany did. It is unacceptable and this Congress, in a bipartisan way, ought to stand up and reaffirm the fundamental rights that we believe in.74

Wolf listed the atrocities occurring in China—slave labor, religious persecution, the plundering of Tibet, capital punishment and the sale of prisoners’ organs, and selling aborted fetuses for food! He reasoned, “It is unacceptable and this Congress, in a bipartisan way, ought to stand up and reaffirm the fundamental rights that we believe in.” For some, just the mere presence of human rights abuses in China justified the use of sanctions. During a 1998 hearing, Representative Pete Stark (D., California) stated, “As you well know, I oppose renewing the Most Favored Nation trading status to the People’s Republic of China. Their record of forced abortions, and sterilizations, human rights abuse, slave labor, proliferation of mass weapons of destruction, provide

74 Ibid.
more than enough reason to deny the status to China.”\textsuperscript{75} In the midst of such moral offense, it was difficult to reason like Kolbe that “the issue is not one of the statistics we heard, but rather it is about the policy that we should use.” People like Kolbe were part of the public discussion. Consequentialist reasoning was possible, but it was not always well-received.

Opponents of MFN were compelled to continually reaffirm their shared abhorrence for the human rights abuses occurring in China. For example, during a 1990 hearing, Douglas R. Hanson, vice president of 3M and representative for the Emergency Committee for American Trade, asserted, “While strongly recommending the continuation of MFN status for China, we are fully aware of the very sensitive moral and political issues that are involved. We in business abhor violations of human rights, and we certainly understand the moral outrage of those who would want to deny MFN for China.”\textsuperscript{76} Members of the Bush and Clinton administrations were also put on the moral defensive for their continued renewal of MFN to which they responded by stating their deep concern for human rights but their disagreement about how to promote them. Testifying on behalf of the Bush administration during a 1991 hearing, Deputy Secretary of State Lawrence Eagleburger remarked, “We do not accept … the premise that what is at stake in the MFN debate is the administration’s concern for human rights in China, or its desire to promote democratic reform. All Americans-in the administration, the Congress, and the public at large-are in agreement on these matters … The real issue, of course, is how we achieve these

\textsuperscript{75} House Ways and Means Committee, \textit{China’s MFN Status}, 105\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1998.
\textsuperscript{76} House Ways and Means Committee, \textit{United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.
Testifying on behalf of the Clinton administration during a 1997 hearing, Secretary of State Madeleine Albright stated, “Mr. Chairman, the debate over the Chinese trading status and the larger debate about U.S.-China policy is not about goals, it is about means. Whether you are a human rights monitor, a business person, a missionary, a military planner, a senator or secretary of state, you will want to see a China that is observing international norms, participating actively and constructively in the international system and defining its interests in a way that is compatible with our own.” Although the means to promoting the end of human rights improvement was challenged, letting values guide policy was not.

**Moral Imperative Stronger than Rational Imperative**

In his essay “Politics as a Vocation,” Weber discusses the ideal qualities of a politician. He claims that the person suited for politics must be able to successfully undertake the tricky enterprise of combining warm passion and cool headedness: “For the problem is simply how can warm passion and a cool sense of proportion be forged together in one and the same soul? Politics is made with the head, not with other parts of the body or soul. And yet devotion to politics, if it is not to be frivolous intellectual play but rather genuinely human conduct, can be born and nourished from passion alone” (Weber 1946: 115). During times of moral polarization, however, the moral imperative of acting passionately seems to win out over the rational imperative of acting reasonably, at least in public settings. During the MFN debates, opponents of MFN revocation were put on the defensive for not following the moral line more so

---

than were proponents of MFN revocation put on the defensive for not acting calculatedly.

When faced head-on with the question of if they would proceed with sanctions if they knew that they were ineffective and might make the situation worse, policymakers either did not have very well thought-out responses or simply reverted to absolutist reasoning. During a hearing of the House Foreign Affairs Committee in 1990, chairman Stephen Solarz (D., New York) asked policymakers, “[I]f you were convinced that a suspension of MFN would not produce an improvement in the human rights situation, and might possibly make it worse in China, would you still prefer a suspension rather than a continuation?” Pelosi avoided answering the question and responded vaguely, “I don’t want to do anything to make the situation worse.”

Lantos asserted that sanctions had historically been effective. He answered:

> We have used this weapon extremely effectively in many, many situations. The Chinese Government desperately needs to trade with the United States. They want continuance of most-favored-nation treatment. It will hurt the regime in Beijing if we deny it. Therefore, I am convinced that denying MFN treatment would have an impact, it would either result in a change in the attitude of the present regime, or when this octogenarian oligarchy passes from the scene, the United States will have been seen to have been on the right side of the issue.

He seemed to be under the false impression that sanctions had historically been effective “in many, many situations.” At the same time, instrumental effectiveness does not seem to be the most important type of effectiveness to him. At the end of his response, he stated that MFN would be successful because it would “either result in a

---

80 Ibid.
81 Ibid.
change in the attitude of the present regime, or when this octogenarian oligarchy passes from the scene, the United States will have been seen to have been on the right side of the issue.” His claim that expediency would be a good outcome but simply being seen as having “been on the right side of the issue” would be equally as good reveals the absolutist underpinnings of his stance. Richard Schulze (R., Pennsylvania) clearly demonstrated absolutist reasoning. He replied, “Even if it would make it worse, it will not make it that much worse, and I say again, we should do what is right from our standpoint and not worry about the-some of the ramifications of it.”

While opponents of MFN revocation seemed deeply offended by accusations that they were doing something immoral, proponents of MFN revocation were not really fazed by challenges to the effectiveness of their chosen approach. Given that they believed they were doing what was right, they were not too concerned about the consequences. That said, there were some attempts by proponents of MFN suspension to cite evidence of its potential effectiveness. These took the form of citing notable exemplars of past effectiveness. Lantos cited the example of denying Poland’s MFN renewal:

Most-favored nation treatment was denied Poland, Mr. Chairman, for infinitely, infinitely smaller violations of human rights. I supported denying Poland the extension of most-favored-nation treatment 10 years ago and the Administration’s policy supported by the Congress worked. The suppressive and dictatorial policies of the Polish Communist regime have now been replaced by a free and democratic government. We all rejoiced when the electrician from Gdansk, Lech Walesa, addressed a joint session of Congress, telling us our own values.

---

82 Ibid.
Lane Kirkland of the AFL-CIO, defended against claims that trade would facilitate political liberalization by citing the cases of the Soviet Union, Chile, and South Africa. He argued, “Very recent history has proven that it is the denial of MFN to dictators that moves their nations towards these ideals and brings liberty to the working masses. Look at what has happened in the Soviet Union and the countries of the former East Bloc. Look at what happened in Chile. And look at what is happening in South Africa. In these countries, the denial of trade privileges has worked.”

During a 1997 hearing, Frank Wolf brought up the example of Romania and cited a similar debate that took place before the revocation of Romania’s MFN status. He recalled that in the debates over Romania’s MFN status, opponents similarly argued that they would not be effective, might be counterproductive, and would harm the Romanian people. He, then, told the story of how the proponents of MFN eventually triumphed: “But the House did vote, in one of its finest hours, to suspend MFN for Romania and it rocked the entire system. People in Romania heard on Radio Free Europe that the United States stood with them, and it gave them hope. It cut the dictators down to size. It sent a message that the United States stood with those who were being persecuted. And less than 2 years later, Ceausescu fell. Perhaps there was no link, but many in Romania believe there was a link, and I believe there was a link, too.” In all of these examples, the causal claims might be a bit suspect. There were probably a variety of other factors in these nations that facilitated democratic changes, particularly domestic forces. For example, Levy (1999) proposes an alternative story

---

of the demise of apartheid in South Africa, “In this alternative story, the demise of apartheid which followed sanctions with a substantial lag, can be attributed to three different factors: the effectiveness of the political opposition of the black majority; the inefficiency and growing economic cost of the apartheid system; and the fall of the Soviet Union” (415). However, policymakers acted on the power of the myths rather than actual analyses of the effects of sanctions. Wolf even admitted to this stating that there might not have been a link but he believed there was.

The most often cited example of sanctions success during the MFN debates was that of their contribution to ending apartheid in South Africa. For example, during a hearing in 1991, Representative William Roth (R., Delaware) asserted:

In South Africa, there were human rights violations and we fought those. I did not agree with the sanctions bill because I thought it was going to put a lot of black South Africans out of work and force their families to go to bed hungry at night, and it has done that. There is 2 million estimated out of work right now. It has caused a lot of problems. But it has done one thing. It has forced that country to face the reality that we in this country are not going to allow those products to sold in this country until there was a change. So there was a manifest change in their behavior.

And I submit to you, Mr. Eagleburger, with all due respect to you and Mr. Baker and others at the State Department, for God’s sake, we cannot continue with business as usual [with China] while they do these things. There are 10 million people over there suffering. And their brains are being washed and we are talking about going on with MFN just as usual.  

Roth had not backed the South African sanctions at the time because he used the consequentialist reasoning that “it was going to put a lot of black South Africans out of work and force their families to go to bed hungry at night,” but since the end of apartheid he had also embraced the myth that sanctions had facilitated that change.

---

However, while claiming the example of sanctions success in South Africa, Roth eventually reverted to simple absolutist reasoning: “[F]or God’s sake, we cannot continue with business as usual [with China] while they do these things. There are 10 million people over there suffering. And their brains are being washed and we are talking about going on with MFN just as usual.” Therefore, when opponents of MFN denial proposed counterevidence in regard to these notable exemplars, they had no effect. For example, some policymakers pointed out that South Africa represented a very different situation since the sanctions employed were multilateral rather than bilateral and since South Africa was not much of an economic liability as China. Representative Robert Matsui (D., California), who opposed MFN linking, reasoned, “The problem with South Africa was that it is a very small nation. We had universal support on the sanctions with respect to South Africa, and I remember-I remember that debate very well. The big issue was whether or not coin dealers were going to be hurt; that seemed to be the biggest issue that came out of that. We were not talking about a great economic loss to the United States if we imposed sanctions on South Africa.”

Matsui did not debunk the myth that sanctions had worked with South Africa, rather he proposed an alternative myth that the sanctions had worked because they were multilateral.

VALUES OK, EMOTIONS NOT OK

While acting on principle was considered legitimate and even esteemed in Congressional hearings, acting purely on emotions was considered completely

---

unacceptable. In addition to finding that moral trade-offs tend to produce absolutist reasoning, social psychologists have also found that moral trade-offs lead to responses of moral outrage (Tetlock, et al. 2000). Tetlock and his colleagues (2000) explain that moral outrage has cognitive, affective, and behavioral components: “lower thresholds for making harsh dispositional attributions to norm violators; anger, contempt, and even disgust toward violators; and enthusiastic support for both norm enforcement (punishing violators) and metanorm enforcement (punishing those who shirk the burdensome chore of punishing deviants)” (855). However, policy justifications based on emotions were not publicly allowable during the MFN debates. Although policymakers may have been experiencing moral outrage in reaction to the events of Tiananmen, they could not legitimately justify their policy stance with emotions. Acting on values was considered acceptable; acting on emotions was not. Young (1996) alleges that deliberative ideals “privilege speech that is dispassionate and disembodied” (124). Thus, not only does theory privilege emotionless speech, so do empirical conditions.

Emotions were only acceptable if they were one of several reasons for MFN revocation. For example, Holly Burkhalter of Human Rights Watch couched an expressive justification for sanctions within other instrumental purposes during a 1990 hearing. Burkhalter began her testimony with explaining the logic behind imposing sanctions for human rights purposes. She stated:

I think at the outset it is worthwhile reflecting on what the purpose of sanctions, sanctions of any kind, are and their application to China. First, I would say that the reason for imposing sanctions is to express revulsion for the gross misdeeds, to distance the United States from those deeds, and to try to exact some form of cost on the persons who
brought you those tragedies. Second, the purpose of sanctions is to try to encourage actions which will start to undo some of the damage-in other words, to try to get some concessions from the perpetrators of the grave misdeeds. Three, the purpose, I would say, of sanctions is to try to discourage a repetition of those egregious abuses.

For all of these reasons and others, I think that the Congress should have suspended most favored nation to China a year ago. That was the time, that was the moment when it was most important to express revulsion, exact a cost, distance the United States, ask for concessions, and try to deter future abuses.  

Burkhalter believed that sanctions served both the expressive purposes of expressing revulsion and distancing the U.S. from human rights abuses and the instrumental purposes of producing concessions and deterring future abuses. In addition to claiming that sanctions would effectively serve these purposes, Burkhalter also argued that “by the letter of the law, the Jackson-Vanik amendment, China would have to lose their MFN status” and also made the claim that increasing repression in China justified imposing sanctions.  

Other human rights activists also depicted sanctions as an instrumental, not an expressive, action. Barbara Shailor of the AFL-CIO stated that revoking MFN meant “using the leverage of our marketplace to effect necessary and positive change.” Their publicly stated goals, at least, did not indicate a solely expressive purpose. In the case of U.S. employment of economic sanctions in response to the Soviet invasion of Afghanistan in 1979, Nossal (1989) observed statements from President Carter like the Soviets needed to “pay a price” for their actions. These types of statements were observable in the early aftermath of the Tiananmen Square incident, however, they eventually disappeared from public and legislative discourse.

The metaphors of tools, instruments, leverage, and weapons also pointed to their

---

89 Ibid.
conceived instrumental purpose. Some proponents of economic sanctions even felt the need to distinguish their instrumentalist motivations from their expressive motivations. One claimmaker stated flat-out, “The point is not to punish China, but to maximize the positive influence the U.S. could exercise as China’s biggest customer.”

During a 1990 hearing, Pei Minxin defended the revocation of MFN as an instrumental action against the claim of Senator Max Baucus (D., Montana) that it was simply an emotional reaction. In his opening statement, Baucus stated:

I am not willing to sacrifice the interests of American farmers and businessmen and workers in a hollow show of outrage. And unfortunately, I believe withdrawing most-favored-nations status from China would be just that, a hollow show of outrage. It may make us feel better, but it would do nothing for the democracy movement in China. It might even make the situation worse. Further, sanctions would damage our commercial interests. And for these reasons, I intend to support the President’s decision to continue to grant China most-favored-nation status.

Pei responded, “I think with full respect for what the Minority Leader said, I think suspending most favored nation temporarily or attaching a set of specific conditions to the renewal will not only make us feel good, but actually will do some good.” Even in the midst of a moralized decision, participants still had to justify sanctions as having an instrumental purpose.

Members of Congress, in particular, were careful to not appear to be reacting emotionally and to maintain a mantle of detached rationality. Opponents of revoking China’s MFN status often accused proponents of acting emotionally and impulsively.

In his opening statement at a 1997 Congressional hearing, William Roth (R.,

---

92 Ibid.
Delaware) stated, “I agree that we cannot passively accept the abuses of human rights, religious persecution and the proliferation of weapons of mass destruction. But I also strongly believe we cannot let the emotions generated by these issues prevent us from making a clear headed assessment of our national interests.”\(^93\) [Note: Roth changed his stance as we saw that back in 1991 he had been arguing for sanctions.] In a 1990 hearing of the Senate Finance Committee, Robert Dole (R., Kansas), framed the decision of whether or not to revoke China’s MFN status as “feel good versus do good,” claiming that “cutting our business ties might make us feel good in the short run, but would we really be doing good in the long run.”\(^94\)

These types of statements appeared to be more acceptable in the Senate than the House. An exchange between Richard Solomon, Assistant Secretary of State for East Asian and Pacific Affairs, and Representative Tom Lantos (D., California) in a 1990 House Foreign Affairs Committee hearing, demonstrates the need for policymakers to appear rational and the offense they took to being characterized as emotional. Lantos interrupted Solomon’s testimony:

Mr. RICHARD SOLOMON. … The legislatively-mandated annual decision for extension of MFN now before us is thus, for some, a convenient outlet for such a punitive impulse.
Mr. LANTOS. Mr. Chairman, could Mr. Solomon repeat the last two sentences? I don’t believe I heard him right.
Mr. RICHARD SOLOMON. Let me finish my presentation.
Mr. LANTOS. I just want to be sure I understand you. Did you say, ‘The legislatively-mandated annual decision for extension of MFN now before us is thus, for some, a convenient outlet for punitive impulse?’
Mr. RICHARD SOLOMON. That is what I said.
Mr. LANTOS. You are suggesting that Members are looking merely for an outlet for their punitive impulse; that is their motivation?

\(^94\) Ibid.
Mr. RICHARD SOLOMON. You use the word ‘merely,’ I wouldn’t use that word myself, but let me finish.\footnote{House Foreign Affairs Committee, \textit{Most-Favored-Nation Status for the People’s Republic of China}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.}

Lantos was offended by Solomon’s accusation that Congress was acting out of punitive impulse. After Solomon finished his testimony, Lantos asked for clarification once again on this statement:

Mr. LANTOS. … Are you suggesting that the people who take a different point of view from yours are motivated by punitive impulse, or do you think that they may be concerned with human rights in China?

Mr. RICHARD SOLOMON. What I had in mind when I put this testimony together was the very obvious fact that what happened last June at Tiananmen was revolting to virtually everybody in this country. It made people mad as hell, and the natural instance when you get mad as hell is to lash out, to be punitive, and our judgment is that that is not a good basis for our policy approach, particularly in the case--

Mr. LANTOS. That is not what your statement says. You owe the Congress an apology. What you are saying is that those of us who disagree with the Administration’s judgment are merely looking for a convenient outlet for our punitive impulses. That is a very inappropriate statement to make with respect to all the Republicans and all the Democrats who disagree with the judgment.\footnote{Ibid.}

Lantos’ defense of his position reflects an attempt to be moral but not emotional, to be both moral and rational. What Solomon characterized as emotion, he re-framed as morality: “Are you suggesting that the people who take a different view from yours are motivated by punitive impulse, or do you think that they may be concerned with human rights in China?” In a 1994 Congressional hearing, Lantos again defended himself against accusations of irrationality in his opening testimony: “… let me try to readjust the framework in which these hearings take place. Because my impression has been that the media has created a picture of a group of well-meaning idealists and
humanitarians who come up here every year making their ritualistic plea for denying 
MFN to China, while the hardheaded realists indulge us in listening to us … I humbly 
suggest … that the hardheaded realists are sitting on that side of this argument who 
propose that we, in fact, use this weapon.”97 Lantos, in other words, tried to legitimate 
his position by claiming to be a “hardheaded realist.” Therefore, there is some 
accountability to realism or, at least, to the language of realism. Even among the 
media and human rights organizations, emotion-laden name calling, like an outburst 
from Rosenthal that the Chinese government was acting like “beasts from hell,”98 were 
uncommon. Disrespectful attacks of this sort were rare.

During a 1990 hearing, Representative Nancy Pelosi (D., California) criticized 
President Bush for not adequately expressing U.S. outrage towards Tiananmen. She 
claimed:

I believe by renewing MFN status for China without a comprehensive 
package of sanctions and conditions, the President missed an 
opportunity to express indignation over the deplorable actions 
undertaken by the Chinese government since MFN was renewed last 
In fact since that year the government of China has killed hundreds of 
Chinese young people. We know about the Tiananmen Square 
massacre. It has killed thousands of Tibetans. It has imposed defacto 
martial laws, placed restrictions on student exchanges and dismantled 
the economic reforms of the 1980’s. Many have called upon the 
President to send a clear message to the leaders of Beijing. 
The President has missed every opportunity to do so. He missed an 
opportunity by vetoing the bill to protect the Chinese students. … 
He missed another opportunity by authorizing the Scowcroft visits and 
the resumption of U.S. support for World Bank lending. 
Now the President urges support for most-favored-nation status to 
China and in fact has renewed it. Missing again, another opportunity to 
send an unequivocal message of U.S. condemnation to the Chinese 

97 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
regime who ordered the massacre in Tiananmen Square and the ensuing repression.\(^9\)

However, during a 1991 hearing, she assured her audience that she was not acting on emotion, but on principle and legal requirements. She stated, “So it is not a question of basing a decision on emotionalism, but it is a question of basing a decision on principle and on our own laws.”\(^{10}\) Again, in the context of foreign policymaking, acting on principle is acceptable but acting on emotions is not. During this hearing, Pelosi debated with William Overholt of the American Chamber of Commerce in Hong Kong on this distinction between principle and emotion. Overholt had claimed, “The dissident community is split right down the middle. The most outspoken people on this have been the students. Students always react with emotion.”\(^{11}\) Pelosi resented this claim. She asserted, “Excuse me, Mr. Overholt. I do not want to waste my 5 minutes. We had this discussion in my office and I resent your characterization of other people’s acting on principle, risking their lives, some of them, to speak out for democracy in their country, as emotion. That is what you say and the President says any time anybody stands up for a principle.”\(^{12}\) There is a fine line between emotion and principle that supporters of MFN revocation were required to tread, as acting on principle was acceptable but acting on emotion was not.

**Sanctions as the “Only” (Moral) Option**

---


101 Ibid.

102 Ibid.
For those who considered themselves as on the side of “principle,” sanctions appeared to be the only option. Policymakers and human rights organizations referred to MFN as the only possible U.S. response to China’s human rights violations. Senator Claiborne Pell (D., Rhode Island) declared in a 1991 hearing, “Opening trading relations played a strong liberalizing role in the totalitarian political system, but it is a measure of our frustration with China’s domestic and international behavior that we have come to the conclusion that the only way to change China’s behavior is express our displeasure where it hurts China the most—in the purse.”\textsuperscript{103} Pell viewed sanctions as having both an instrumental purpose (“the only way to change China”) and an expressive purpose (“to express our displeasure”). In a 1994 hearing, Senator Russell Feingold (D., Wisconsin) admitted that “MFN linkage may not be the most perfect way of going about this issue in China, but it may be the most viable option out there to show our immense frustration about some human rights problems in China.”\textsuperscript{104} Those who needed to express displeasure and frustration turned to MFN linkage as the tool of choice. It was those legislators that viewed the decision as a moral issue that claimed that MFN conditioning or revocation was the only option. During a 1996 hearing, Representative Joe Scarborough (R., Florida) argued, “The thing, that angers me the most is I hear people saying, let us not use MFN. There must be some other approach that we can take. What other device is there for Congress? This is the only game in town. If we want to speak out against nuclear proliferation and the continued human rights abuses and the continued slaughter that has occurred in China over the

\textsuperscript{103} Senate Foreign Relations Committee, Subcommittee on East Asian and Pacific Affairs, \textit{Sino-American Relations: Current Policy Issues}, 102\textsuperscript{nd} Cong., 1\textsuperscript{st} sess., 1991, my emphasis.

\textsuperscript{104} Senate Foreign Relations Committee, \textit{U.S. Policy toward China}, 103\textsuperscript{rd} Cong., 2\textsuperscript{nd} sess., 1994.
years, this is the only game in town.” The MFN sanction had a moral monopoly over those who professed to care deeply about human rights.

Human rights organizations and activists were the biggest non-governmental supporters of revoking China’s MFN trade status. They also claimed that it was the only way to promote human rights in China, yet they tended to avoid weapons imagery, preferring more benign tool or mechanistic metaphors. During a 1996 Congressional hearing, Frank Wolf (R., Virginia) read a letter from well-known human rights activist Elena Bonner in support of revoking China’s MFN status. She wrote:

Dear Congressman Wolf, I believe it is dangerous to grant the Most Favored Nation status to China while mass scale violations of human rights are taking place there, confirmed by many authoritative international human rights organizations. The United States possess only one real mechanism for protection of human rights in other countries-granting or not granting such status.

Haiqing Zhao of the National Council of Chinese Affairs, a group of pro-democracy students and scholars in China, testified in a 1994 hearing, “MFN has historically been linked to human rights improvements in Communist countries. For China, it is basically the only tool the United States has to effect substantive changes in the Chinese Government’s human rights policies.” As demonstrated by these statements from human rights activists, sanctions were seen as having an instrumental rather than purely expressive purpose.

---

105 House Ways and Means Committee, United States-China Trade Relations and Renewal of China’s Most-Favored Nation Status, 104th Cong., 2nd sess., 1996.
106 House International Relations Committee, China MFN: Human Rights Consequences, 104th Cong., 2nd sess., 1996, my emphasis.
107 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994, my emphasis.
Among human rights activists, there was also a sense that MFN was not a perfect tool but the only viable option for those on the side of “principle.” During a 1994 hearing, Mike Jendrzejczyk of Human Rights Watch testified, “[W]e have acknowledged that MFN is a blunt tool. However, thus far no one has come up with an alternative that represents the same kind of power and leverage.”108 Human rights groups did not seem to consider it their role to come up with policy ideas, rather they tended to just react to the existing policy options. Lodi Gyari of the International Campaign for Tibet stated during a 1994 hearing, “I am not very particular about which vehicle is used, as long as a change is brought about in Tibet. As I said today, I do not think anyone has come out with a clear and precise vehicle other than the one that President Clinton has come out with.”109 Gyari, like Jendrzejczyk displayed a passive stance toward policy generation, waiting on policymakers to come up with alternatives.

JUSTIFYING U.S. EXCEPTIONALISM

NO ONE ELSE IS DOING IT

A common argument against revoking China’s MFN status was that no other nation was considering this action. According to world culture theorists, states may feel pressure to conform to some international policy standard or may formulate policies by imitating those of other states. Was the argument that no one else is considering revoking China’s MFN status on the basis of human rights violations indicative of pressure to conform to world norms? Not quite. The reason why

108 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
109 Ibid.
opponents of MFN brought up the fact that no other country was considering revoking MFN was because they said that this would diminish the impact of the raised tariffs. Because China would be able to trade with other countries with low tariffs, the economic impact of the U.S. revocation of MFN for China would not really hurt China as much as proponents would hope. Testifying in 1990 as the president of the U.S. Chamber of Commerce in Hong Kong, John Kamm displayed this type of reasoning:

I draw your attention to the list of 99 countries which have granted MFN to China; it is in my testimony. On that list is Japan. Congressman Solarz pointed out, its companies are licking their chops in anticipation of Congress taking MFN away from China. Also on that list is Norway, which infuriated Beijing by granting the Dalai Lama the Nobel Peace Prize, and France, which is the headquarters of China’s democratic opposition, as well as one or two countries which have recently switched diplomatic relations to Taipei. Not a single one of them is contemplating revoking China’s tariff status. Do we seriously think that this sanction will be effective in changing Beijing’s behavior if we are the only country to carry it out?\footnote{House Foreign Affairs Committee, Most-Favored-Nation Status for the People’s Republic of China, 101st Cong., 2nd sess., 1990.}

Kamm expressed the concern of the business community which was that revoking China’s MFN status would put U.S. businesses at a disadvantage compared to competitors in other countries, none of which was considering revoking China’s MFN status. He also tried to give moral credibility to not revoking China’s MFN status, claiming that countries known to be committed to human rights like Norway and France were not considering this same action. Roger Sullivan, president of the U.S.-China Business Council, stated in a 1991 hearing:

I would hope that the Congress would consider the point that we are after all now not the dominant economic power in the world, but one country among many and we are going to have to compete in this world. We are going to have to live in this world and the competition is going to get a lot tougher.
We ought to follow the principle that I think you followed, when you were debating the sanctions bill last year, and that is do not take unilateral action. In other words, if other countries in the world are not prepared to hold up certain standards like that, then we should not either.\footnote{House Ways and Means Committee, \textit{United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.}

He warned against taking unilateral action, not based on principle but based on the disadvantaged position U.S. businesses would be in as they competed with businesses in other countries.

While this “no one else is doing it” line of reasoning was adopted most frequently by businesses and members of the administration, some policymakers like Representative Frank Guarini (D., New Jersey) also questioned whether or not it was wise to revoke MFN when no other countries were doing so. Like the business community, he reasoned that it would put the U.S. at an economic disadvantage. He argued:

I am a little disturbed about our closing our doors where we are the third largest trading partner that China has, which is $18 billion worth of trade. Now, if all the other countries of the world, the Western allies, had marched in locked step and had done what we are proposing to do, then China would, in fact, be isolated. But that $18 billion in two-way trade would only go to other countries who would pick up the slack. There is no other Western country except the United States that is proposing to take this position about MFN. Therefore, it will slow down our trade with China. It will close our doors. There are billions of dollars worth of trade, which means tens of thousands of jobs that would be lost in this country, and we are not getting the support from our other allies.\footnote{House Ways and Means Committee, \textit{United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.}

The pressure to conform to other states in the case of not revoking China’s MFN status did not come from policymakers’ perceptions of the illegitimacy of this action in the
eyes of the world but from policymakers’ perceptions that the cost of this action would be too high if performed unilaterally.

**The U.S. Cares More**

Proponents of revoking or conditioning China’s MFN status considered the fact that the U.S. was the only country considering this action to be an indicator that the U.S. cared more about human rights than other countries. In 1994, Winston Lord, Assistant Secretary of State for East Asian and Pacific Affairs, testified that they had tried to gain the support of other nations for sanctions against China, however, he remarked that other countries were not willing. He stated, “Clearly, our allies put a higher stake on commercial objectives relative to human rights than we do. This is not to say it is right or wrong, people can disagree, but it is a statement of fact. It does not mean they do not raise human rights with the Chinese. I believe they do. But let us say that the rhetoric is probably rounded off a lot more than some of our rhetoric although we try to be always respectful and dignified about it. But I think it is fair to say we raise this issue more forcefully than any of our allies.”

Lord used the fact that the U.S. was the only country considering attaching human rights conditions to the renewal of China’s MFN status to show that the U.S. “raise[ed] this issue more forcefully than any of [its] allies.” America’s non-conformity did not lead to accusations of illegitimacy, rather it served to legitimate it as more concerned about human rights than other countries. In a separate hearing in 1994, Lord speculated on why other countries were not joining the U.S.: “Most of our partners, I will be honest, even though they may support in principle the question of human rights, either they

---

disagree with our tactics, or they are very concerned about commercial and other dimensions. They want to soft-peddle human rights so they do not lose contracts. We are always trying to get multilateral support—we do not want to be out there by ourselves—but frankly it is not easy to get it.”114

Supporters of MFN revocation argued that this action would reinforce the identity of the U.S. as a leader of human rights in the world. In a 1995 hearing, Representative Gerald Solomon (R., New York) insisted that standing up for human rights was part of the American identity: “[I]t is time we stopped aiding and abetting this kind of inhumane treatment of decent human beings. It is time we once again became respected leaders of the world in standing up for the basic human rights of all people. We were noted for that. What happened to this great country of ours?”115

When questioned by Representative Stephen Solarz (D., New York) about the fact that only the U.S. was considering such a drastic step, Zhao of the National Council of Chinese Affairs pointed to U.S. ability and identity as justifications:

Mr. SOLARZ. What do you think about the fact that so far we have more or less acted in tandem with most of the other Western industrialized countries? … So far as I know, no other country has taken MFN status away from China. We would be the only one to do it. The prospects of any other country joining us are probably somewhere between nil and negligible. … So how much impact would this have if it is done just by the U.S.?

Mr. ZHAO. First of all, as I said, China has a surplus in foreign trade with the U.S., and that is the only country; and, secondly, we think that the U.S. has the leadership role in the world in terms of freedom and democracy, and we are convinced of that, and we think that the U.S.,

---

114 Senate Foreign Relations Committee, U.S. Policy Toward China, 103rd Cong., 2nd sess., 1994.
when they stand for the right or for the wrong result, they will have an impact on other countries.  

CONCLUSION

An analysis of public and legislative deliberation surrounding the MFN decision reveals how the decision was sacralized, framed as a trade-off between principle and profit. The conversation came to center around what America stood for rather than whether or not sanctions would work to improve human rights in China. From an examination of deliberation, we see that support for sanctions was not dictated by institutional rules, as it actually required policymakers to stretch the letter of the law and to ignore a host of other possible actions. Congress, instead, pushed for the more damaging economic sanction of MFN revocation to respond to China’s human rights violations due to what they saw as President Bush’s overly mild and immoral response. The media, Chinese and Tibetan human rights activists, legislators, and labor unions framed the MFN decision as a moral trade-off between principle and profit. Therefore, in public deliberation in a morally polarized setting, claims based on American values and identity become more salient.

Social psychologists have found that when a decision is framed as a moral trade-off individuals tend to apply absolutist reasoning in their decision-making and tend to respond with moral outrage. In the public setting of policy debates, we saw that absolutist reasoning, or arguing that policymakers should act “on principle,” was acceptable and valued. However, we also saw that emotionalism was considered unacceptable. Public accountability, therefore, reinforces absolutist reasoning, but it

---

does not condone emotionally-guided decisions. When applying sanctions was framed as the principled option, then effectiveness became an irrelevant criterion for some policymakers. When confronted by claims that sanctions were ineffective, some simply deflected this comment by claiming that sanctions were “the right thing to do” while others relied on unfounded stories of sanctions success to justify their stance. In a sacralized setting, rather than mitigating against the effects of morally absolutist reasoning, public deliberation enhances the acceptability of absolutist reasoning while lowering the requirements for consequentialist reasoning, thereby, making sanctions publicly justifiable.
CHAPTER 4
WHAT THE CHINESE PEOPLE WANT:
SACRED DELIBERATION AND MORAL CREDIBILITY

Let Mr. Harry Wu speak of what is better for China. Let me speak of what is better for Tibet and not the CEO’s of Boeing or AT&T.


I have always felt strongly that, particularly when it comes to questions of how to promote democracy and human rights, we should be guided in our views by those who are in the forefront of the struggle for democracy and human rights in the countries we are trying to help, not that we should give a veto over our policy to those people, let alone give them the franchise for formulating it, but certainly their views ought to weigh very heavily with us.

-- Stephen Solarz, House Foreign Affairs Committee Hearing (1990)

In addition to creating an obstacle to consequentialist reasoning, sacred deliberation poses another challenge to democratic deliberation. In one respect, the legislative deliberations over U.S. human rights policy toward China represent a triumph for deliberative democracy. Chinese citizens were included in witness lists and given the opportunity to participate in a decision that would affect their lives.

Summarizing the concerns of scholars regarding inequalities in public deliberation, Polletta and Lee (2006) write, “Men, white people, native speakers of standard English, and those with cultural capital are both better equipped to formulate abstract reasons and are more likely to be heard as giving good reasons, no matter what they actually say” (701). This was not necessarily the case with deliberations over U.S. human rights policy toward China. There were women, non-white people, and non-native speakers participating and being heard. They did, however, display a good amount of cultural capital for formulating abstract reasons. Yet, in the midst of this openness there was another type of inequality present—an authority bias toward
“moral experts.” In the case of U.S. human rights policy toward China, the people who were seen as the “moral experts” were victims of Chinese human rights abuses and those who claimed to represent them. While doing a relatively good job of meeting the deliberative democratic ideals of equal participation, mutual respect, public-spiritedness, and freedom from coercion, public deliberations revealed a different type of condition that blunted the force of the better argument—unequal credibility.

The framing of the MFN decision as a moral trade-off between principle and profit made assessments of moral credibility important in the debates and shaped the way that moral credibility was assessed. In the context of a morally polarized debate, policymakers were concerned with people’s moral credentials and not just whether or not their arguments were reasonable. Those enjoying the greatest moral credibility in the meaning context of principle versus profit were Chinese dissidents and those who claimed to represent them, while those enjoying the least moral credibility were those with economic interests in China. Rather than hinging on the quality of the arguments, in the context of a morally polarized debate, policymakers’ judgments hinged on the quality of the people making the arguments. The deliberation was not “guided by the force of better argument” without consideration of the characteristics of the speaker (Habermas 1996). However, the people who were revered in this circumstance were not those who classically enjoy power, those with greater material resources, but rather those with “moral power” (Mehta and Winship 2010). This could be a cause for celebration—finally a competitor to the material authority of business groups in the U.S. Perhaps, it simply levels a playing field that is normally tipped in the favor of economic power. However, it could be a source of concern as well. When moral
authority becomes a consideration, the possibility of compromise or consensus is diminished. Marietta (2008) observes, “Reasoning that is absolute or grounded in competing authorities allows little room for compromise or mutual agreement, lowering the prospects of meaningful deliberation” (769).

Assessments of moral credibility mattered in the debate because it led some policymakers to dismiss arguments that came from “bad people” and to uncritically support the positions of “good people.” In this way, policymakers were able to dismiss the consequentialist criticisms that sanctions were ineffective and would hurt the wrong people, to dismiss alternative conceptions of moral action, and to dismiss alternative approaches to sanctions. It also led to the reinforcement of support for the positions of morally credible people. What morally credible people wanted was sanctions. This support for MFN revocation was, in part, defined by the framing of MFN revocation as the moral option as we saw in Chapter 3, but it was also facilitated by an orientation of influential human rights groups and activists toward the short-term goal of prisoner releases. The threat of sanctions, as presented by the media, did seem to result in the “success” of prisoner releases. This narrow definition of effectiveness bolstered human rights groups’ support for sanctions.

HOW MORAL CREDIBILITY WAS ASSESSED

The framing of the MFN decision affected the way in which policymakers assessed the credibility of public participants in the debate. First, since Chinese dissidents were seen as having the greatest moral credibility, those who cited connections with them also had enhanced moral credibility. Second, greater distance from the economic sphere increased one’s moral credibility. Third, centrality in the
human rights sphere raised one’s moral credibility. The underlying theme of these criteria is the *purity of one's intentions*. Those seen as having purer intentions were assessed as having greater moral credibility.

**Chinese Dissidents as Morally Credible Experts**

During a 1999 hearing, Representative Christopher Smith (R., New Jersey) made it very clear who had moral credibility in his eyes. He testified:

> According to The Washington Post, President Clinton himself stated and I quote, ‘I hate our China policy. I wish I was running against our China policy. I mean, we give MFN and change our commercial policy and what has changed?’

Mr. President, I am with you, I hate our China policy, too. Well, here we are almost 5 years later still asking what has changed, and the consistent answer from Chinese prisoners of conscience who should be listened to and listened to well, and from other human rights advocates, seems to be that by reducing the economic and the political pressure on Beijing we have actually made things worse.\(^{117}\)

The dissidents that were attributed with the greatest moral authority during the debates were prison labor activist Harry Wu and human rights activist Wei Jingsheng. Members of Congress and other witnesses frequently cited Wei’s stance on MFN. For example, Smith cited Wei in a 2000 hearing on PNTR to give validity to his opposition to PNTR:

> Mr. Chairman, the possibility of MFN revocation, even if it is only a distant possibility, is a critically important leverage that we must not surrender. And in appearance before my sub-committee shortly after his expulsion from China, former prisoner of conscience, Wei Jingsheng, a man who shed his blood on behalf of human rights and endured years of prison torture, explained the importance of the annual review to the status of human rights in China. He stated, and I quote, ‘The Chinese communists will only tolerate anything as a result of pressure. Once the pressure is lifted, then there is no question any more of tolerance.’ He further explained that in the view of the Chinese

communist authorities the first and foremost area where the U.S. government can exert real pressure is in the field of trade.\textsuperscript{118}

During a 2000 PNTR hearing, Sen. John McCain (R., Arizona) had this to say about Harry Wu:

One of the witnesses testifying here this morning is Mr. Harry Wu, whose story imbues him with a level of moral authority that all Americans should respect. Mr. Wu’s personal experience with the forced labor system in China, as well as his continuing efforts to shine a light on those abhorrent practices, weigh heavily in the consideration of all who believe human rights should be a priority of U.S. foreign policy.\textsuperscript{119}

Each side vied for who accurately represented what the Chinese dissidents and Chinese people wanted. An exchange between John Kamm, an American businessman and human rights activist, and Xingyu Chen, President of the Independent Federation of Chinese Students and Scholars, demonstrates the contested claims of Chinese activist backing:

Mr. KAMM. … There is a letter that has been sent by five leading Chinese dissidents who are also officials in the Chinese Government that has been sent to each member of the Senate. And these five officials support continuation of MFN and are against conditions. I want to read the sentence: ‘Cancellation of MFN status is the last thing the Chinese remaining reformers want, while the acceptance of written conditions would mean political suicide for them.’ And I agree with that. I don’t think in the councils of the Chinese Government officials can support conditions.

Dr. CHEN. I have also a letter with 24 former Chinese leaders now in exile. They support conditional renewal; and I know those five people, and they are not human rights activists in the United States. I can say that clearly. Those people are human rights activists; and formerly, they were Chinese leader assistants or reformers or activists.\textsuperscript{120}

\textsuperscript{118} House Ways and Means Committee, \textit{China’s Accession to the WTO}, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2000.
\textsuperscript{119} Senate Commerce, Science and Transportation Committee, \textit{Permanent Normalized Trade Relations with the People’s Republic of China}, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2000.
\textsuperscript{120} Senate Finance Committee, \textit{China Most-Favored-Nation Status}, 102\textsuperscript{nd} Cong., 1\textsuperscript{st} sess., 1991.
The same split can be witnessed among scholars. Testifying in a 1991 hearing, Perry Link, professor of East Asian Studies at Princeton University, questioned Secretary of State James Baker’s statistics of Chinese students in the U.S. that supported the extension of MFN. He stated, “The U.S. survey shows that 12 percent favored Mr. Baker’s position, but Mr. Baker does not point out in his letter to you, gentlemen, that 60 percent in the same survey favored adding conditions.”[121] He further questioned the reliability of Baker’s survey instrument. Another China scholar, David Lampton, then president of the National Committee on United States-China Relations refuted Link’s claims of Chinese support for MFN revocation. He cited a poll taken at Peking University in which “65 percent of the students surveyed opposed economic sanctions against China by any nation.”[122]

During one hearing David Lampton and Nancy Pelosi debated over who better knew what the Chinese people wanted. We see that in American deliberations over foreign policy it was considered legitimate and important to take into account the non-citizens who would be affected by the policy. Lampton testified, “In making its decision, Congress should take into account the desires of the Chinese people. Citizens of the PRC with whom I have spoken, in circumstances where I believe I heard their deeply felt convictions, do not want MFN treatment for China ended.”[123] Pelosi contested Lampton’s portrayal of what the Chinese people wanted. She cited her conversation with Chai Ling, a well-known student leader in Tiananmen Square who was exiled in Paris, as a counter-point. She claimed, “I have spoken to some Chinese

121 Ibid.
122 Ibid.
people too … I had the opportunity on Sunday to have a long meeting with Chai Ling in Paris … She, as a Chinese person who cares … strongly came down on the side of economic sanctions.”

In rebuttal, Lampton pointed to the fact that Chai Ling did not currently reside in China while the people he referenced did. He asserted:

But one of the distinctions I have seen is, we have to ask, are we talking to people who are currently in China and having to live with the consequences of our decisions for them while they remain in China? … I would just refer you to … a superb article that come out in the New York Times by Pulitzer Prize winner Sheryl WuDunn that pertained to this issue. … she addresses this question. ‘A small minority of Chinese intellectuals interviewed say they are so disillusioned with the Government that they support revocation of most favored nation status, but the great majority appear to favor continuation of trade benefits.’

Among the quotes Lampton mentioned from WuDunn’s article was one from a Chinese businessman who said, “It will deal a blow to the reformers. It will foster an anti-Western attitude.” Pelosi responded by affirming the legitimacy of Chai Ling’s view as that of an “insider.” She also remarked, “I am not surprised that a Chinese businessman, as quoted, would not be interested in MFN [revocation].” Here we see an additional layer added to the question of moral legitimacy—relationship with the economic sphere. Pelosi invalidated the view of the Chinese businessman because of his economic stakes in the decision.

During the course of the MFN debates there was much less reference to American public opinion and what the American people wanted than there was to what the Chinese people wanted. Participants lamented the lack of better polling data on the opinions of Chinese people, not the American people. Members of Congress

124 Ibid.
125 Ibid.
126 Ibid.
127 Ibid.
did not base their stances on what would garner them the most votes as Pape (1997) suspected. One of the few mentions that I found during the MFN debates about the influence of local constituents on their representatives was in regard to religious constituents being outraged by religious persecution in China. For example, in a 1998 hearing, Senator Charles Grassley (R., Iowa) said to Secretary Albright, “When I hear from my constituents on China, obviously, if I hear from people who are in favor of normal trade relations, they obviously would write about the benefits economically to our country. But I hear mostly from those who are opposed, not on economic issues and not on losing jobs or anything like that, but about the religious persecution in China.” However, most Congresspeople did not justify their stances through public opinion. Thus, interestingly, discussions of “what the Chinese people wanted” tended to be more influential in the MFN debates than discussions of “what the American people wanted.” The push for sanctions did not come from the American public writ large, rather it came from Chinese human rights activists in the U.S., American human rights activists, labor unions, and certain members of Congress.

**Relationship to the Economic Sphere**

Another key indicator of moral credibility in the context of the morally polarized MFN debates, as alluded to in Pelosi’s statement above, was *distance from the economic sphere*. One’s connections with economic interests invalidated one’s moral credibility. In the context of the MFN debates, businesspeople were vilified as willing to sacrifice principle for profit. Businesses and those concerned about

---

economic interests were criticized in the media as being immoral, as not caring about human rights. One journalist accused “[t]he buccaneers of free enterprise” of being “unmoved by the charges of complicity in the merciless violence against Tibet.”\(^\text{129}\)

Wei Jingsheng, a famous political dissident, was quoted as asking “whether the American Government was ‘controlled by rich capitalists’ whose consciences never stopped them from making money.”\(^\text{130}\) Jack Sheinkman, the president of Amalgamated Clothing and Textile Workers Union, in a letter to the editor, criticized Senator Bill Bradley (D., New Jersey) who opposed economic sanctions as “ignor[ing] our nation’s proud heritage of principles over crass commercialism.”\(^\text{131}\) These personal attacks do not exemplify the mutual respect of ideal democratic deliberation. They were more common in newspapers than in Congressional hearings.

It was not only businessmen who are being criticized in the media, it was also the economic branch of the U.S. government. One State Department official expressed, “It’s irritating. … We seem to do the Chinese work for them. If they need someone to argue against revoking MFN, they only have to get hold of some guy from the economic branch of [the U.S.] government.”\(^\text{132}\) Thomas Friedman similarly pointed to the role of the economic sectors of government as the culprits behind the decision not to withdraw China’s MFN status: “It was the Treasury Department and the Chamber of Commerce whose institutional instincts dominated this decision, not the State Department and Human Rights Watch. And this is hardly unique. Economics

dominate Japan policy, Asia policy and Latin American policy as well. The game of
nations is now geo-Monopoly, and it is first and foremost about profits, not
principles.”

Businessmen were also framed in the media as siding with the enemy. When
Secretary of State Warren Christopher received a cold response from Chinese leaders
in his demand for human rights improvements in order to extend China’s MFN status
in 1994, Washington Post journalist Mary McGrory told the story this way: “He was
stomped on by the Chinese, who received on-site assistance from a death squad of
U.S. businessmen who seemed as incensed about calling China on the carpet about
human rights as the Chinese themselves.” She then cited Thomas Jefferson’s
statement that “[m]erchants have no country,” claiming that “[t]ime has only improved
his prescient description of today’s CEO.” Pelosi responded negatively to the same
event: “That was a punch in the stomach, to see [the businessmen] not associate
themselves with the values of the secretary of state. … If business had played even a
little bit of a role with China, saying that human rights are important to the American
people, that would have helped.” Rosenthal made the good versus evil claim even
starker stating, “American business in China sups eagerly with the Devil. American

133 Friedman, Thomas L., “U.S. Is To Maintain Trade Privileges for China’s Goods; Clinton Votes for
135 Ibid.
136 Behr, Peter, “Major U.S. Companies Lobbying Clinton to Renew China’s Trade Privileges,” The
executives, a planeload, are now at table, ushered in by Secretary of Commerce Ron Brown to make deals, without reference to human rights.” ¹³⁷

A New York Times article by Patrick Tyler on former Secretary of State Alexander M. Haig, Jr.’s reaction to President Clinton’s China policy when he first entered office demonstrates how Haig’s alliances with business overshadowed his suggestions for alternatives to sanctions. In 1993, Tyler wrote about how Haig was “seething about American policy toward China” while “sitting in one of the skyscraper hotels that signifies economic ascent” and on a visit to Beijing to “introduce the new president of the United Technologies Corporation to the Chinese leadership.” ¹³⁸ The “tough China policy” was Clinton’s announcement in 1993 that the renewal of China’s MFN status should be tied to human rights improvements. Tyler clearly portrayed Haig as being on the business side. When asked about what a better U.S. human rights policy should look like, Tyler quoted Haig saying, “We would espouse our values, but we should do it by example, not by pedantry.” ¹³⁹ He then contrasted Haig’s position with that of a Chinese dissident:

Not far from Mr. Haig’s hotel suite, a recently released political prisoner provided some contrast. The prisoner was held for more than two years in solitary confinement and thought for a time that he had lost his mind in isolation. His health is broken, his life shattered by his pamphleteering for democracy in 1989. He asked that his name not be used.

After listening to a description of Mr. Haig’s view, he said that keeping up the pressure on the Chinese leadership to respect human rights has been one of the greatest influences on its behavior.

¹³⁹ Ibid.
'It would be very sad if the United States changed its policy in this way,’ he said.\textsuperscript{140}

The person who enjoyed moral credibility in this article was the released political prisoner who had the credentials of being held in solitary confinement and having “his life shattered by his pamphleteering for democracy in 1989.” And, it was this person, who was arguing for greater pressure, not leading by example. This article seemed to have its intended effect as it was followed by an editorial from A.M. Rosenthal scathingly criticizing the immorality of Haig and supporting Congress’ efforts to sanction China.\textsuperscript{141}

\textbf{CENTRALITY IN THE HUMAN RIGHTS SPHERE}

Although some opponents of MFN revocation or conditioning had the necessary connections with Chinese people, their opinions were dismissed because they lacked the backing of a recognizable organization in the human rights sphere. Though non-affiliated individuals were able to testify in Congressional hearings, their lack of organizational affiliation or questionable representativeness seemed to cast a question mark over their claims. Different groups claimed to legitimately represent the majority of the Chinese students and scholars in the U.S. During a 1990 hearing, Schulze tried to sort out who really represented the majority by questioning Shi-Jiang Li, Assistant Professor of Radiology at the Medical College of Wisconsin:

\begin{quote}
Mr. SCHULZE. … Doctor, can you tell me about the Chinese Independent Union at the University of Wisconsin. Is that a group that you are a part of?
Mr. Li. No, I am not a member of the Chinese Independent Union. I am representing myself.
Mr. SCHULZE. What group are you representing?
\end{quote}

\textsuperscript{140} Ibid.
Mr. Li. I am representing Chinese student scholars who support the most favored status for China at the Medical College of Wisconsin. Also, I submitted to the committee the signatures of 53 students who share the same view as I.

Mr. SCHULZE. Fifty-three. The reason I ask is that I have a letter from three Chinese organizations which they claim to represent the overwhelming majority of Chinese student body in the State of Wisconsin.

That is the Chinese Student Independent Union at the University of Wisconsin, Madison, Chinese Association, University of Wisconsin, Milwaukee, and Chinese at Marquette, which they state publicly they are overwhelmingly opposed to the continuation of most-favored-nation status.

Mr. Li. How many people?

Mr. SCHULZE. That is why I am asking. … In their letter they say the overwhelming majority and you are telling me 57?

Mr. Li. They don’t have numbers, Mr. Schulze. That is the point I tried to make. I said that although there is no accurate survey of the percentage of Chinese students and scholars who support the continuation, it is the majority of the Chinese students who are supportive. The independents. How many people are there? Do they have signatures?

Mr. SCHULZE. I guess we do not have an accurate count. I guess some people are saying they represent the majority that others are saying they represent.142

Schulze has a hard time placing Li because he was unaffiliated with the major organizations of Chinese students and scholars in the U.S. Li testified that retaining MFN would create more possibilities for democratic ideas to enter China and for continued American influence and would lead to better lives and opportunities for ordinary Chinese people. However, even though Li had moral credibility simply as a Chinese person, his lack of affiliation with a recognizable organization seemed to give his arguments less weight in the eyes of policymakers.

Certain Congresspeople had a reputation for being human rights activists while others did not. Those with long-standing reputations for fighting for human rights, or

142 House Ways and Means Committee, United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC, 101st Cong., 2nd sess., 1990.
“human rights warriors,” enjoyed greater moral credibility than those who did not.

During a 1996 hearing, Representative Matt Salmon (R., Arizona) asserted that Wei Jingsheng was for MFN renewal. He stated: “Wei Jingsheng himself, who many of us believe should be getting the Nobel Prize, also in his legal briefs advocated that MFN should be continued, as do most of the dissidents that still languish in Chinese prisons.”\(^{143}\) Testifying in the same hearing, famous activist Harry Wu challenged this characterization of Wei’s position. He claimed:

I have heard recently that some of the Wei Jingsheng comments of the Most Favored Nation trading status have been put to political use by some Members of Congress and the media. This kind of selective memory to serve one’s own political and personal agenda is shameless and should be seen clearly for what this really is. Most of these people today using Wei Jingsheng’s 1993 Most Favored Nation comments never supported Wei Jingsheng’s fight. They never supported the nomination for Wei Jingsheng to win the Nobel Peace Prize. If they really have a concern for human rights in China, a concern for democracy, I think they should support Wei Jingsheng.\(^ {144}\)

Wu suggested that certain people had the moral legitimacy to quote Wei Jingsheng and others did not. Salmon did not as he did not have a long-standing reputation in Congress for supporting the cause of human rights. In the case of legislative deliberation, we witness a dynamic that might not be present in other types of public deliberation—legacies. Since members of Congress can be in office for long stretches of time and participate in numerous deliberations, their deliberative histories come to bear on the discussion. This means that no matter how good their arguments, the force of the arguments of those who lack certain legacies will not be heard.


\(^{144}\) Ibid.
MORAL CREDIBILITY CAN BE EARNED: THE CURIOUS CASE OF JOHN KAMM

Can moral credibility be earned? Yes, it can; however, it takes a great deal of time and effort. The case of John Kamm, a businessman turned human rights activist, demonstrates how one’s moral credibility can improve over time and, as a result, how a once-marginalized voice can become more central. This also speaks to a condition which challenges the equality of participation—since respect must be earned over time, newcomers to deliberations will not be on equal footing with old-timers.
Kamm’s initial marginality allowed him to bring creative ideas to the table, however, it also prevented his ideas from being taken seriously. Kamm brought a unique approach to human rights promotion, yet his ideas were never considered to be policy possibilities. The New York Times described Kamm’s approach: “Kamm travels to Hong Kong and China four times a year, gathering information on obscure political prisoners and presenting their names to government officials. He estimates that his involvement has been at least partly responsible for about 250 prisoners being released or being given better treatment in prison. No other person or organization in the world, including the State Department has helped more Chinese prisoners.”

Kamm himself described his approach at a 1992 hearing. He explained:

I adopt a different approach. … I take a businessman’s approach to negotiating. It is an approach that is based on perseverance. I keep going back. I speak the language. I have been doing business there for 20 years. Some of the people I did business with 15, 20 years ago are now in positions of power, so I rely on something known as ‘guanxi,’ or relationship.

Kamm’s approach of cultivating good relationships with Chinese government officials and asking for their help in the release of political prisoners, if measured by the number of prisoner releases he has helped facilitated, was effective. But effective policies are not necessarily the ones that are pursued by policymakers.

What is interesting is that while Kamm enjoyed the favor of Chinese government officials, organizations like Human Rights Watch and Amnesty International enjoyed the favor of the American public and policymakers. The article reported that Kamm believed that “business executives should intervene because they are the ones who can get results. Executives can make the same plea that Amnesty International would make, but the Chinese hear it as coming not from a hated adversary but from friends with a common agenda.”\textsuperscript{147} He claimed that the Chinese government saw Amnesty International as “a hated adversary” while viewing business executives as “friends with a common agenda.” An adversarial approach may not be effective at garnering the release of political prisoners, which is the chief aim of groups like Human Rights Watch and Amnesty International, yet this approach was seen as legitimate because HRW and AI enjoyed a high degree of moral legitimacy in the U.S. Moreover, they were organized groups, unlike John Kamm who could only speak for himself. They represented the power of numbers.

In addition to having his own unique personal approach to human rights promotion, Kamm was also the only witness in the Congressional hearings who

\textsuperscript{147} Ibid.
actually laid out an alternative governmental approach to revoking MFN in detail. At a 1992 hearing, he stated:

I am proposing a new approach to addressing human rights violations in China; namely, the establishment of a bilateral human rights commission. This commission would be the principal forum for monitoring compliance with the multilateral and bilateral agreements and commitments in the area of human rights. It would enable a regular and systematic exchange of views on human rights issues and would provide a vehicle for handling requests for information on the status of individual cases.

The work of the U.S. office of the bilateral commission would closely parallel that of the Commission on Cooperation and Security in Europe, which is an independent agency created by Congress in 1976 to monitor compliance with the Helsinki Final Act.148

Kamm’s suggestion did not gain significant backing. When Kamm proposed the idea of a bilateral human rights commission, no one jumped on board. However, in 2000, when Representatives Sander Levin (D., Michigan) and Doug Bereuter (R., Nebraska) proposed the establishment of a similar commission (the CECC) it became part of the U.S.-China Relations Act of 2000 (H.R. 4444) and was signed into law. A key difference between the commission Kamm proposed and the CECC was that Kamm envisioned a commission that was bilateral, facilitating exchanges between Chinese and American officials on human rights matters. The CECC would not have this bilateral character. Kamm, unlike most human rights activists, took the initiative to be a generator of policy ideas instead of simply a passive follower of government proposals.

Why was Kamm ignored when he proposed the bilateral commission eight years prior? One of the reasons seemed to be Kamm’s social marginality at the time.

Kamm, a businessman turned human rights activists, did not belong to an identifiable group or organization. He originally entered the MFN debates as the president of the U.S. Chamber of Commerce in Hong Kong in 1990. In 1991, he returned to the Congressional hearings under the title of American businessman/private citizen. The difficulty of placing Kamm is demonstrated in a request for identification from Senator Lloyd Bentsen (D., Texas), Chairman of the Senate Finance Committee, during the 1991 hearing:

The CHAIRMAN. Mr. Kamm, I have all the organizations of the other witnesses listed, and their background and experience. Tell me what brings you here.

Mr. KAMM. Yes, sir. I am an American businessman based in Hong Kong, sir. I was the President of the Chamber of Commerce last year; but I have been doing quite a bit of work on human rights as a private citizen over the last year. And that is how I am appearing today.149

When Kamm was cited in the media, he sported rather obscure identifications. He was referred to as “a human rights advocate in Hong Kong,”150 “an American businessman who has carried on private humanitarian work in China for years,”151 and “an American businessman with experience in pressing Beijing for human rights concessions.”152 Frequently cited in the press, Kamm seemed to enjoy better standing in the media than he did in Congress.

In 1992, Kamm returned to the Congressional hearings under the title of Managing Director of Kamm & Associates, Ltd. Again, policymakers had trouble

---

categorizing Kamm. During a 1992 hearing, Representative Don Pease (D., Ohio) questioned Mr. Kamm’s human rights involvement as a businessperson:

Mr. PEASE. Mr. Kamm, you are on a panel with a couple of distinguished human rights advocates. Do you consider yourself a human rights advocate who happens to be in business or a businessman who happens to be interested in human rights?
Mr. KAMM. I am a businessman who is also a human rights advocate.
Mr. PEASE. I see. How is it that you have access, as you describe in your testimony, to the Chinese government.
Mr. KAMM. I have a number of opinions about that. That is a very good question. I adopt a different approach. I try to go up once every month. I take a businessman’s approach to negotiating. It is an approach based on perseverance. … I rely on something known as ‘guanxi,’ or relationship. …
Mr. PEASE. Well, I accept that. I guess, just speculating, if I were a member of the Chinese Government and knew that you had a history of coming before Congress and testifying in a way that supports the Chinese Government’s position, I would be eager to talk with you also. I am just wondering whether the fact that you have this access might not reflect your basic orientation on United States-Chinese policy.
Mr. KAMM. Sir, I make no secret of that at all. In fact, 2 years ago, when I testified to the House Foreign Affairs Committee, I said in a public session that any capital I gained opposing trade sanctions … I wouldn’t spend on my business, I would spend it on trying to get people out of jail. So I have been doing that for 2 years. I try to build up some capital and then spend that capital trying to release people from prison.153

For Pease, the fact that Kamm is both businessman and human rights activist seemed contradictory. He also questioned Kamm’s legitimacy based on his close ties with the Chinese government.

Kamm was doubly marginalized by the human rights and business communities. Robin Munro, once director of Human Rights Watch’s Hong Kong office told The New York Times, “In his first few years, there was a lot of suspicion

among rights groups.” This was illustrated by Mike Jendrzejczyk’s questioning of Kamm following Pease’s:

Mr. JENDRZEJCZYK. Could I comment briefly, Mr. Pease? Having talked to Mr. Kamm about this directly, I will say to you what I have said to him. Clearly, it is the threat of Congress to condition remove MFN that gives Mr. Kamm some of the leverage and access he has. We believe that much, much more could be obtained from the Chinese Government in response to appeals like his and others if there were these kinds of conditions on MFN.

And I would also add that some of the information that he is given by the Chinese Government and he then releases to the public ends up not being true, or is purely for the propaganda purposes of the Government.

…

Mr. KAMM. … I only release information on cases I myself work on. There is a difference between that and just transmitting information that is given to you by the Chinese Government.154

Clearly, Jendrzejczyk, part of one of the most visible and influential human rights groups, Human Rights Watch, did not ally himself with Kamm. The business community disowned him when he became too vocal on human rights. According to The New York Times, six months after his term as president of the U.S. Chamber of Commerce in Hong Kong ended, “his successor wrote him on chamber stationary asking him to ensure that the press did not link AmCham, as the chamber is called, to his comments on human rights.”155 The article also reported that “[i]n September 1991, Kamm resigned from Occidental [his former company] and began his own business so that he could devote more time to working on prisoner releases.”156

Perhaps Kamm realized the drawback of being unaffiliated because in April 1999, he established his own human rights organization, The Dui Hua Foundation. The organization’s website states that “it is a non-profit organization dedicated to

154 Ibid.
156 Ibid.
improving universal human rights by means of a well-informed dialogue between the United States and China.”\textsuperscript{157}

Another reason why Kamm’s proposal was ignored was that in 1992 everyone who considered themselves a human rights activist, whether governmental or non-governmental, was attached to the idea of revoking or conditioning China’s MFN trade status as the way to promote human rights in China. A sizable enough group needed to put their weight behind the proposal. Kamm, as a lone individual, could not get his idea across. The group dynamics of democratic deliberation need to be better understood. Ironically, the same border-crossing positional advantage that allowed Kamm to think outside the box and overcome cognitive limitations also put him at the disadvantage of being socially marginalized. It was not until revoking or conditioning China’s MFN trade status was completely foreclosed as an option that human rights advocates shifted their weight toward another idea.

However, the picture looked very different for Kamm 10 years later and beyond. During a 2002 hearing of the Congressional-Executive Commission on China, T. Kumar of Amnesty International recognized the work of Kamm as legitimate. He stated, “Now with China, the interests of business have basically overtaken other interests between the bilateral relationships. On that note, I would like to congratulate Mr. Kamm for being a businessman and also doing human rights work. Mr. Kamm’s work should be the model for other business leaders and other business organizations.”\textsuperscript{158} During a 1999 hearing, Harold Hongju Koh, Assistant Secretary for

\textsuperscript{157} Dui Hua Foundation website: http://www.duihua.org/.
\textsuperscript{158} Congressional-Executive Commission on China, \textit{Taming the Dragon: Can Legal Reform Foster Human Rights in China?}, April 11, 2002.
Democracy, Human Rights and Labor, highlighted Kamm’s influence on the administration in their dialogue with China:

For example, one issue that we raised is about a project that is conducted by an American businessman named John Kamm, who is in San Francisco, whom many of you know. He initiated a project with the Chinese Government some 5 years ago to get information about prisoners, their names, whereabouts, et cetera. That project moved along and then slowed to a halt. He expressed to a number of Members of this Committee, to a number of staff members and to the executive branch his concern that he was not able to continue with this very important project. We raised his issues at an extremely high level. We raised it repeatedly.159

In response to Koh’s statement, Representative Doug Bereuter (R., Nebraska) also acknowledged Kamm’s work on behalf of human rights, stating, “I appreciate very much the fact that you brought up John Kamm’s effort in your earlier testimony and again today. I have worked with him, and other Members have worked with him as well. It is one of the few rays of light that exists and I hope the Chinese understand that his prisoner information program is something we give a lot of emphasis to and take as one very important effort.”160 Kamm had earned moral credibility over time through his dedication to human rights promotion efforts. The purity of his intentions became clearer to others over time.

HOW MORAL CREDIBILITY MATTERED

Now I explore the effects of moral credibility upon the dynamics of the debate. The salience of moral credibility in the debate allowed for 1) the dismissal of consequentialist criticisms of sanctions, 2) the dismissal of alternative conceptions of

160 Ibid.
moral action, 3) the dismissal of alternative approaches to human rights promotion, and 4) the reinforcement of the positions of morally-credible actors.

**Consequentialist Criticisms Dismissed**

**“Sanctions Will Not Work” Criticism Dismissed**

Members of the business community questioned the effectiveness of unilateral sanctions for non-trade purposes. For example, during a 1993 hearing, Ronni Nass of the American Association of Exporters & Importers opposed revocation of MFN claiming, “Trade sanctions imposed for foreign policy purposes have a poor history of effectiveness. They serve mainly as symbolic gestures, often at great expense to U.S. economic interests, U.S. exports, and foreign market share, and consumer prices.”

As illustrated in Nass’ statement, claims about the ineffectiveness of unilateral sanctions for non-economic purposes by the business community were generally combined with claims that they were also too costly for U.S. businesses. Yet, claims like these, even if they were reasonable, tended to be dismissed by policymakers because representatives from the business community were seen as lacking moral credibility.

This lack of moral credibility was visible in a response to the statements and testimony of Donald Anderson, President of the United States-China Business Council, during a Congressional hearing in 1993. Representative Tom Lantos (D., California) questioned Anderson’s stance on human rights:

> Mr. LANTOS. [continuing]. Toward the issues that the two gentlemen raised, and we will hear from the human rights panel shortly, the

---

persecution of Catholics and Protestants, forced abortions, prison labor, lack of press freedom, lack of freedom in the whole political arena or in the association arena. Do those register with you at all?

Mr. ANDERSON. Of course. I am rather offended that you would suggest that-

Mr. LANTOS. You have no reason to be offended.

Mr. ANDERSON. I lived in China from 1973 to 1975 at our liaison office. I lived in China again from 1980 to 1983 at our Consulate General in Shanghai. I have two friends who have been arrested. I have one friend, a diplomat, whose son was shot and killed at Tiananmen.

Mr. LANTOS. You should be passionate about these issues.

Mr. ANDERSON. My debate is how you go about it and what makes sense. I am not insensitive to the human rights issues. In fact, the United States is the only country that is even considering taking this approach.

Mr. LANTOS. You should be very proud of the fact that the United States is taking this approach, and you and your association should direct your considerable resources and talents and assets to having our friends and allies take similar approaches rather than undermining the principled approach in favor of human rights that this country has historically taken. 162

Given that he represents the business community, Anderson has trouble establishing moral legitimacy in the eyes of Lantos even when citing his connections with Chinese dissidents. When Anderson reasonably questioned whether revocation of MFN was the right approach, Lantos accused him of “undermining the principled approach.” He also remarked that the use of sanctions should be worn like a badge of honor, symbolizing the commitment of the U.S. to human rights.

During the same hearing, well-known human rights activist Harry Wu also questioned Anderson’s concern for human rights. He exclaimed, “I would suggest to Mr. Anderson, please don’t say any more about you are helping the Chinese. I am Chinese. I feel very ashamed. I feel insulted. If you say, ‘I am making money,’ fine,

you are making money. But don’t say you are helping Chinese. I think we Chinese are
helping you get more and more money. That is it. Thank you.” Business people
could legitimately speak about money but not about what was good for the Chinese
people. Thus, even though the potential ineffectiveness of trade sanctions for non-
economic purposes entered into the discussion, the fact that these claims came from
business sources delegitimized them. Clearly, it was not simply the quality of the
argument itself that mattered. On another occasion, after the testimony of H. Richard
Kahler, president of Caterpillar, Inc. China, Wu disregarded Kahler’s comments about
how business could promote human rights. He argued, “I really want to respond to Mr.
Kahler, when he is talking about American business in China. I would just say
business is business. Your business in China is to make money. It is not a charity. Do
not try to tell me that you are really helping the Chinese promote democracy, freedom,
whatever.”

“SANCTIONS DO NOT WORK LONG TERM” CRITICISM DISMISSED

Dai Qing, a Chinese dissident, testified that China should be granted
permanent normal trade relations (PNTR) as this would more effectively bring about
long-term and deeper improvements in human rights. Yet, Dai lacked an
organizational affiliation, making her voice more marginal. She was identified in the
Congressional hearing as “a proponent of greater liberties in her native China” and
provided a spirited argument for the granting of PNTR for China. During a hearing in
2000, Dai argued:

What is important to me is not how we are going to bring a few fellows like Harry Wu or others back to have power or in the government, but rather more important, to deconstruct that structure that maintains the authoritarian government in the first place. For the path to that deconstruction, China would go through the nourishment and encouragement of the private ownership and private economy, and then leading up to a civil society. (In English) The -- (inaudible) -- is independent (benefits ?), independent voice, and independent idea with -- and strong enough to limit it, the dictatorship. (In Chinese; through interpreter.) And therefore, the PNTR could play a pivotal role in forming this civil society in China.\textsuperscript{165}

She pointed out that while sanctions might work for short-term gains like prisoner releases, they would not work “to deconstruct that structure that maintains the authoritarian government in the first place.” In a conversation with Senator Rod Grams (R., Minnesota) during the same hearing on PNTR in 2000, she made the case that the annual review was leading to the release of some political prisoners but not deeper changes:

MS. DAI: … So I think every year the annual criticize and annual check is good for us, for the political prisoner or political dissident, this kind of person. I, myself, I get benefit from your strong criticism, or even negotiations, human rights negotiations. But it does, I think, very little for the whole society, the ordinary people.
SEN. GRAMS: Are you saying, ma’am, that it would be better if this committee and senators did not criticize the human rights record of China?
MS. DAI: (In English) I don’t mean not criticize. You criticize and we really feel warm. But for the ordinary people, for the people that are not trailed by the police, not tapped the telephone 24 hours, the ordinary people, they just hope that the whole society will change bit by bit, bit by bit. And they just want to earn money, they just want to have their own voice. So I think it’s good for political dissidents, but will do very little for the whole society, only, you know, annual check and criticism.\textsuperscript{166}

\textsuperscript{165} Senate Foreign Relations Committee, \textit{Granting of Permanent Normal Trade Relations Status to the People’s Republic of China and Its Implications on Families, Labor and Human Rights, Trade and the Economy}, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2000.
\textsuperscript{166} Ibid.
This stood in stark contrast with the claims of those who believed that prisoner releases were the most important outcome or indicator of human rights progress. Dai also displayed an unusual appeal to public interest that was contrary to her own private interest. She was basing her opinion on what she believed to be the public good of the Chinese people rather than what would be best for her personally. Although others framed their arguments in terms of the common good, their version of the common good also coincided with their personal interests, revealing some limitation to the public-spiritedness of deliberation.

Dai not only lacked an organizational affiliation, she also lacked the social prominence that other Chinese dissidents had garnered over the years. Even though Dai also had strong dissident credentials having also participated in the June 4th demonstrations and being imprisoned for it, she did not have as much notoriety in the U.S. as did political dissidents like Harry Wu and Wei Jingsheng. During the 2000 hearing on PNTR for China, Senator Paul Wellstone (D., Minnesota) justified his stance by citing Wu and Wei’s similar stance:

SEN. WELLSTONE: I want to say to you that there are also people – Harry Wu’s name was mentioned. … I was going to say Harry Wu is very strongly in favor of at least trying to have some of these amendments and conditions attached to this agreement, and he thinks we ought to annually review it.
Ni Wei Jingsheng is someone whom I’ve come to love. I mean, Wei Jingsheng is – you and Wei Jingsheng are part of the same – I mean, I have such admiration for both of you. I mean, Wei spent how many years – 12 years, 14 years? – in prison for his writing.
MS. DAI: Seventeen.
SEN. WELLSTONE: Seventeen years. And I want to say to you – because I don’t want you to think that what I say is just abstract or overly intellectual.
I’ve spent so much time with Wei. You know, I consider him to be a close friend. And I’m moved by what he says. And in our country, a lot
of people like Wei who have the freedom to speak out, they say don’t give up annual review, at least make it clear to the government that you care about these issues still, especially given the fact – we’ve had 20 years of more and more economic activity, more and more trade, more and more United States companies going to China and lots of change. … But you know what hasn’t changed? The human rights record has not gotten any better. … So I want you to know that my position is a – it is a thoughtful position and one that I also feel strongly about.167

Thus, we see that there are distinctions among Chinese dissidents. The voices of the famous, well-known dissidents had a greater impact on policymakers than did the voices of more obscure dissidents. There was general consensus that policymakers should take into account the opinions of Chinese citizens and Chinese citizens were able to participate in the deliberations, however, they did not all have equal influence.

“SANCTIONS WILL HURT THE WRONG PEOPLE” CRITICISM DISMISSED

In addition to questioning the effectiveness of unilateral sanctions for non-trade purposes, the business community and the executive branch of the U.S. government did argue that sanctions would hurt the wrong people, including U.S. workers and consumers and Chinese workers and reformers. When representing the U.S. Chamber of Commerce in Hong Kong, John Kamm demonstrated a consequentialist critique of sanctions based on the harm that they would cause the “reformers” in South China and Hong Kong. He claimed in one hearing:

Worst hit of all will be Guangdong Province, the fountainhead of economic reform. It will sink into depression as factories close and as many as a million workers are thrown out of work. As much of 10 percent of the province’s productive capacity will be idled. Hong Kong, whose economy has, in many respects, merged with that of Guangdong in the 10 years since China and the United States granted each other

MFN, would lose $8-9 billion in trade contracts, fully 12 percent of total exports. Jobs would be lost by the thousands, firms thrown into bankruptcy. The aftershocks would be felt in every sector of the economy. …

In short, China’s loss of MFN would badly destabilize Hong Kong and South China. How, in God’s name, will this result aid the cause of democracy and reform in China as a whole?¹⁶⁸

Kamm believed that economically liberal regions, like South China, held the most promise of leading China in not only economic reforms but political reforms as well. This argument that MFN denial would hurt the most reform-oriented parts of China was a constant refrain from representatives of the Bush administration as well. For example, during a 1991 hearing, Deputy Secretary of State Lawrence Eagleburger argued:

Denial of MFN would inflict serious harm on those within China—whether it be students, intellectuals, workers, managers, or even Government officials—who continue to struggle to keep alive the openness to the outside world and the prospect of further reform. It would hurt those segments of the Chinese economy that are the most dynamic, the most Western-oriented, and the most committed to the marketplace. It would severely damage the economic base of those forces generating pressure for further reform. In short, it would visit harm upon innocent millions of Chinese who now depend on an open China and who look to the United States for support.¹⁶⁹

Thus, there were arguments that MFN revocation would hurt the Chinese people. However, people like Lodi Gyari, president of the International Campaign for Tibet, raised the issue of whether or not businesses and government officials could speak credibly about what was good for the Chinese and Tibetan people. Human rights activists, like Gyari, felt that it was fine for businesses to speak about economic costs


but inappropriate for them to speak on human rights. During a 1996 hearing, he expressed:

I also wanted to say briefly whether its experts coming from the business world or even if it is your colleagues, Mr. Chairman, when people come here and try to testify and say that you want to give MFN because it is good for the people of China and Tibet, I feel very insulted. If they recommend MFN because clearly there is a lot of money to make, that is fine because this is a capitalist nation, and we know that there is money to make. …

I feel very much insulted and offended when people come here because in the last week or so I had the opportunity to testify at the other committees on the Senate side. I really felt as a Buddhist I should not feel it at times very much a sense of anger when I heard some of your business leaders come there and without any embarrassment to testify that we are doing all this because we believe that this is for the betterment of China and Tibet. Let Mr. Harry Wu speak of what is better for China. Let me speak of what is better for Tibet and not the CEO’s of Boeing or AT&T. This I would like to say. Even if it comes from the senior people at the Administration, even from some of the very respectable Members of the U.S. Congress, it is not the truth.

Gyari insisted that business people, members of Congress, and members of the Administration were not really in a place to say what was good for the Chinese or Tibetan people. Thus, in public deliberation, people can be expected to stay within the bounds of their positions and assumed interests rather than deliberating about the public good.

One of the few voices that did not come from the economic sector or executive branch of the government that argued that MFN denial would hurt ordinary Chinese people was that of Reverend Daniel Su, assistant to the president of China Outreach Ministries. Su testified during a 1997 hearing:

People suffer when China becomes isolated and hostile. I am a witness to that. As a child, I didn’t have enough to eat or warm clothes to wear
in winter. I can still recall the days when my parents had no money to buy me shoes, and many times I had to walk to school barefoot. Later when I became a Christian, I couldn’t find a Bible and had to literally copy one of the gospel books by hand. So engaging China through trade has helped relieve the suffering of the ordinary Chinese people. If China’s MFN were revoked, Beijing’s direct and indirect retaliation would endanger the international community and bring greater persecution of political dissidents and Christians. …

[S]o engaging China through trade has helped relieve the suffering of the ordinary Chinese people. If China’s MFN were revoked, Beijing’s direct and indirect retaliation would endanger the international community and bring greater persecution of political dissidents and Christians. …

[R]evoking MFN will primarily hurt the Chinese people. Ironically, the hardest hit will be those who have left China’s socialist economy, hoping to thrive in the Western-style free market. If MFN is denied China, such hard-working Chinese would be hurt the most. They would then have to go back to the Beijing Government for their daily bread.  

Given Su’s status as a Chinese person who had suffered under the Communist regime, it would seem that his word might have some weight. However, it did not. We gain clues as to why in an introduction to his testimony by Representative Joseph Pitts (R., Pennsylvania). Pitts introduced Su during the hearing:

Back in January, after I was sworn into my first term of office, I contacted several individuals I knew who had a lifetime commitment to China, who understood China and the Chinese culture and mentality, and who had years of service and experience in China to back their opinion on renewing MFN for China. I am pleased that two of these gentlemen can be with you this afternoon. Rev. Daniel Su was formerly a member of a house church in China. He has spent the last several years ministering to the Chinese, speaking at workshops, and writing articles on the Chinese and Christianity. He currently serves as assistant to the president of China Outreach Ministries, an independent evangelical Christian ministry which focuses on reaching out to mainland Chinese students and their families in the United States.  

Su not only belonged to an organization that was marginal to the human rights community, China Outreach Ministries, whose only appearance was in this hearing, he was also connected with a Congressperson who was new to Congress and to the fight for human rights. Therefore, it seems that his criticism of the negative consequences of

---

171 Ibid.
sanctions for everyday Chinese people had little impact due to the lack of moral credibility of its source.

**ALTERNATIVE CONCEPTIONS OF MORAL ACTION DISMISSED**

There were rare people who offered alternative definitions of “moral action,” who criticized sanctions as an immoral approach, however, these people were members of marginal organizations, thus, weakening their credibility. One person who questioned the humaneness of sanctions and argued for an alternative approach that did not come from the business community was Father Robert Sirico. He introduced himself and the organization he represented in a 1998 hearing: “I represent the Acton Institute for the Study of Religion and Liberty, a non-profit research organization that promotes international contact between scholars, students and civic organizations in pursuit of a classically liberal world view of peace, prosperity, enterprise and religious freedom.” Sirico questioned the ethics of sanctions, stating, “I’m bound to point out that the Holy Father has spoken out in very strong terms about the evils that sanctions can visit upon a country.” He argued for “moral suasion, commerce and diplomatic ties” as alternatives to sanctions, claiming that “[a] policy of peace and trade promotes a wider range of freedoms and actually holds out the prospect for making the right kind of difference and provide a genuine moral center for international, political and economic relationships.” Yet, Sirico and the Acton Institute also inhabited a socially precarious position as both champions of free trade and human liberty. Acton Institute

---

173 Ibid.
was not a human rights organization. (Note: Later Sirico did establish a separate
human rights organization.)

Xiaoxia Gong, a Ph.D. student in Sociology at Harvard University, also pushed
for a nonviolent approach in her testimony. In 1990, Xiaoxia Gong, Chairperson of the
Board of Directors of the China Information Center, testified before Congress in
multiple hearings. In one of these hearings she introduced herself as “a graduate
student in the Department of Sociology at Harvard University” and as “the chairperson
of the board of directors of the China Information Center, an organization established
last May dedicated to the freedom of information and the promotion of humanistic
values in China.” Gong was one of the rare participants in the debates who stated
being against violence in principle and, therefore, in favor of MFN renewal. She
stated, “[W]e believe in nonviolent political transformation and we believe that one of
the best ways of achieving change in a peaceful manner is to keep China’s doors open
and keep our links with the moderate and the reformist faction in the Chinese
leadership.” Gong reaffirmed her dissident credentials while arguing in favor of
MFN renewal. She asserted:

I, myself, hate this regime as much as other Chinese do, if not more. Because being a political dissident in China for 16 years, I suffered a lot in the political campaigns and even in prison for my ideals and longings for freedom and democracy. However, under the Communist rule, the Chinese people have already suffered too much in political coercion, turmoil, famine, shortage, and most recently, corruption and inflation. If the removal of MFN could indeed lead to a violent overthrow of the Government, which I doubt very much, I am worried

---

174 This is a different organization than the one founded under the same name by Harry Wu in 2002.
175 Senate Finance Committee, Extending Most-Favored-Nation Status for China, 101st Cong., 2nd sess.,
1990.
176 Ibid.
that the Chinese people would pay a terribly high price both in human and in economic terms.\textsuperscript{177}

Both Gong’s organization and her concern about the human cost and violence associated with sanctions were marginal in the debate. After appearances in the 1990-1991 hearings, neither Gong nor China Information Center ever appeared in the MFN hearings again. Despite having dissident credentials, the marginality of her organization to the human rights sphere in the U.S., seems to have dampened her presence and impact on the debate.

**ALTERNATIVE APPROACHES DISMISSED**

Not only did human rights advocates dismiss the consequentialist criticisms of those who lacked moral credibility, they also dismissed their suggestions of alternatives to sanctions.

**ENGAGEMENT**

The most frequently offered alternative to sanctions during the MFN debates was “engagement.” Though the Clinton administration pushed for “engagement” as an alternative policy option to revoking or conditioning China’s MFN trade status, it became so wedded to trade that it lost legitimacy as a principled stance. For example, Representative Jennifer Dunn (R., Washington) in a 1995 hearing stated, “I had an interesting session yesterday morning with a group of businesses from my home state, back in my district, major exporters, many of whom do business with China. Their advice to me was to consider that they best way for us to assist foreign nations and to have a good influence on them is through policies of engagement, through trade. I,

\textsuperscript{177} Ibid.
too, believe that.” Because “engagement” was advocated by the business community and because it became synonymous with trade, it became difficult for anyone who considered themselves to be a human rights activist to argue for. Thomas Friedman wrote of the repeated MFN debates, “As always, the moralists make a passionate case for ratcheting up pressure on China, but they have no strategy. And the strategists make a sobering case for why continued engagement with China is a U.S. interest, but they have no morality.” In the context of this morally polarized debate, one could not both be a “moralist” and for engagement. There was no social space for such a position. During a 2000 hearing, Representative Sherrod Brown (D., Ohio) questioned the intentions of businesspeople who were pushing engagement, putting them in the same boat as the Communist Party and the People’s Liberation Army:

Which of these three wants to empower workers? Does the Chinese Communist Party want the Chinese people to enjoy increased human rights? I don’t think so. Does the People's Liberation Army want to close the labor camps that Wei Jingsheng and Harry Wu have talked about? I don’t think so. Do Western investors want Chinese workers to be able to organize and bargain collectively? I don’t think so. None of these three groups, none of these groups -- the Communist Party of China, the People's Liberation Army, and Western investors -- none of these three groups want the current situation in China to improve. So, when CEOs wandering the halls of Congress tell us that engagement with China will bring democracy to China, I think their real intentions are a bit suspect.

In the context of a morally polarized deliberation, it was not the quality of people’s arguments that were being weighed so much as the quality of their intentions.

The perception was that those really fighting for human rights were not the people arguing for “constructive engagement.” But, rather, that “constructive engagement” was simply a nice way of framing inaction. For example, Representative Frank Wolf (R., Virginia) argued during a 1997 hearing:

I think some have called for a constructive engagement, but nobody has engaged. The Congress hasn’t engaged; they all go down to the floor and give speeches for constructive engagement, and then the bill passes, the Chinese get MFN, and the engagement goes away. Sometimes the engagements are trips to China, paid for by people who are connected with the Chinese Government. But they never visit the priest in jail; they never ask to see the bishops. They never try to go to the house churches. And the engagement pretty much ends.181

T. Kumar of Amnesty International asserted during a 1997 hearing that “constructive engagement should be an active constructive engagement, not passive constructive engagement, active in the same level as trade.”182 Again, the problem with constructive engagement for human rights advocates was the seeming lack of action that it implied. During a 1998 hearing, Pelosi also criticized the Clinton’s policy of “constructive engagement,” stating, “The president likes to describe his engagement policy as constructive engagement, I say it is neither constructive, nor true engagement, because it just is a policy that does whatever the Chinese [government] want[s], and does not have the give and take, the response to our concerns about proliferation, human rights, and trade.”183

Training Programs

183 House Ways and Means Committee, China’s MFN Status, 105th Cong., 2nd sess., 1998.
Henry Ma, who was identified by the Senate Finance Committee chairman as “visiting Professor of English at the International Technology University in Santa Clara, California,” criticized the revocation of China’s MFN status an inappropriate approach to human rights promotion. He argued, “The only way the United States can send [a human rights] message is to keep the door to China open and to expose the Chinese people and the Chinese government to what freedom, democracy and human rights really mean. … If the United States revokes MFN, the Chinese government will shut the door to the United States.”

Ma’s reasoning for not revoking MFN was not unique. Many who opposed MFN used this “open door” reasoning. However, Ma offered an alternative approach that no one else did during the MFN debates—training programs. He claimed:

Once the Chinese people and the Chinese officials have a better understanding of [freedom, democracy, and human rights] it will be much easier to help China improve its record in these areas. In my own experience leading some training programs at my university, I’ve sometimes worked with the business executives and officials from Chinese government. After they have been exposed to the United States, they always tell me how much they have learned from the experience and how much better they understand the meaning of democracy and the human rights.

Though training programs are one of the primary vehicles of human rights promotion utilized by other countries, they have not been as popular a vehicle for human rights promotion in the U.S. Ma was the only person to mention such an approach during the MFN debate. These training programs would later be one of the key vehicles of human rights promotion discussed in the CECC forum, therefore, it becomes clearer that it is

---

185 Ibid.
something about the nature of the MFN debate that prevented this discussion of alternative approaches. Although Ma asserted his moral credibility by identifying himself as a participant in the June 4th movement, he did not have an organizational affiliation, leading to his marginalization.

Honest Exposure and Example

Another American that criticized the underlying logic of the sanctions approach and offered alternative approaches was Joy Hilley, Executive Director of Children of the World, a nonprofit international adoption and relief agency. She questioned the sanctions approach on cultural grounds and offered a couple of alternatives, arguing:

Our third concern is that those who cite human rights abuses as the reason for denying MFN status rarely do anything to relieve those situations, nor do they offer reasonable solutions. Especially troubling is that they fail to realize that linking human rights abuses with trade status is a Western perspective and approach. This approach completely disregards Chinese history and thought, and it deeply offends the Chinese people because they do not understand it. In our experience, the two most effective methods of addressing the human rights issues of China are honest exposure and example.¹⁸⁶

Yet, the idea that sanctions were a Western approach and, thus, not appropriate to China did not gain a following. No one besides Hilley argued this point. It is not really clear nor did Hilley ever clarify what she meant by addressing human rights through “honest exposure.” Her second suggestion of leading by example was also rarely considered. Hilley’s ability to think outside of the sanctions box and to provide a cultural critique of sanctions may be due in large part to her marginal social position.

However, Children of the World did not represent a major player in the human rights movement, and, therefore, was not institutionally connected to the ideas of other organizations in the movement. While this social marginality allowed her to come up with alternatives, it also meant that she would have a hard time getting her ideas heard.

**POSITIONS OF MORALLY CREDIBLE ACTORS REINFORCED**

Within the dynamics of a morally polarized debate, in contrast to the continual dismissal of the criticisms and suggestions of morally non-credible actors, the positions of morally-credible actors were continually reinforced. In 1990, chairman Stephen Solarz (D., New York), kicked off a hearing of the House Foreign Affairs Committee hearing on China’s MFN status by stating that the aim of the hearing was to answer a key question: “The key question is whether continuing or canceling MFN for China will enhance the prospects for the emergence of democracy and respect for human rights in China.”

The hearing appeared to start off with the intention of establishing whether or not the economic sanction of revoking China’s MFN status would be an *effective* means to encourage the emergence of democracy and respect for human rights in China. However, this was not the question that would actually dominate the hearing. Rather, a key question in the hearing came to be—what do the Chinese people want and who legitimately represents their views? Later in the hearing Solarz went on to state the importance of considering what the Chinese people wanted:

> I think for us another critical question is what the leaders of the pro-democracy movement in China would like us to do. I have always felt strongly that, particularly when it comes to questions of how to promote democracy and human rights, we should be guided in our

---

views by those who are in the forefront of the struggle for democracy and human rights in the countries we are trying to help, not that we should give a veto over our policy to those people, let alone give them the franchise for formulating it, but certainly their views ought to weigh very heavily with us.  

Solarz claimed that it was important to include “those who [were] in the forefront of the struggle for democracy and human rights in the countries [Americans were] trying help.” There was significant regard in the public deliberations for the opinions of the Chinese people, particularly Chinese democracy activists. Interestingly, Solarz also states that he does not believe that they should be given veto power or “the franchise for formulating it.” The entrance of their views through deliberative democratic practice was acceptable, but the entrance of their views through voting was not. However, if theories of deliberative democracy hold, then the access to deliberation may form an equally significant type of influence. Solarz cited the historical precedents of listening to the black leadership of South Africa and Solidarity in Poland when they asked for sanctions to be applied to their countries.

During this hearing, Solarz specifically asked policymakers whether the opinions of Chinese students and whether the effectiveness of sanctions were important factors in formulating their policy position. He posed the following questions: “[I]f you were convinced that a majority of the students in China, and those who are associated with the struggle for political and economic reform, wanted us to

---

continue MFN, rather than suspend it, would you favor its continuation, rather than suspension?” Pelosi answered:

Yes, the answer would be yes, if the majority of the students and the people in China thought that it would be a good idea, I would be inclined to review it carefully, but I think we have to stick by our own principles of what we stand for and not ignore the blatant violations of human rights. But certainly, if their remedy is such, that would be something to put on the record. I met with Chai Ling in Paris last week, and she was very vehemently against MFN being renewed, and you heard Haiqing Zhao last week speak against MFN, and I think those voices are very important.

Pelosi demonstrated absolutist reasoning claiming that “we have to stick by our own principles of what we stand for and not ignore the blatant violations of human rights.” She also acknowledged the importance of the voices of the Chinese students, citing their support for MFN.

When posed with the same question, Lantos also cited the backing of Chinese students. He claimed that those Chinese who were free to speak were clearly in favor of suspending MFN:

Let me respond to your first question. If the majority of the Chinese felt that it is undesirable to deny most-favored-nation treatment, would one change one’s mind? Well, the Chinese students and free Chinese outside of China have overwhelmingly spoken, and they are clearly against renewing most-favored-nation treatment. I do not have any illusion that polls in China are relevant in this regard. … I think it is obvious the people in China are in no position to express their views. The leadership of the free Chinese in Europe and Asia and the United States are clear. They are on the record. They are in favor of denying MFN to China.

---

190 Ibid.
191 Ibid.
Lantos recalled a similar discussion occurring when the U.S. was deciding whether or not to sanction South Africa under apartheid, “We have had a similar discussion, as you recall, when we dealt with other kinds of sanctions with respect to South Africa. The point was constantly raised that we are hurting the very people we want to help, but yet, the Congress proceeded, placing sanctions on South Africa, and those sanctions were effective.” In the South Africa discussions, there were also claims made that the sanctions would hurt innocent civilians, yet this did not seem to matter to Lantos who instead honed in on their effectiveness. Representative Gerald Solomon (R., New York) also agreed that policymakers should pay heed to what the Chinese students wanted. He stated, “[I]f convinced the students wanted us to continue MFN … I would say yes.”

Representative Richard Schulze (R., Pennsylvania) was the final respondent. He made his absolutist reasoning very clear:

To your questions, if the students don’t want it, we should do what is right. I remember going to Romania, and if you remember so many years ago, I put in a resolution of disapproval on Romania, which failed, but in retrospect it was right. I think if we had it to do over again, every Member of Congress would have voted in favor of that. Despite that, the Jewish community, the Christian community, the hierarchy in Romania told us not to eliminate MFN, we have got to do what is right and not necessarily be influenced by those over there. Even if it would make it worse, it will not make it that much worse, and I say again, we should do what is right from our standpoint and not worry about the-some of the ramifications of it. Should we have legislation? Absolutely. This is a is a it is a matter of trade and morality, and again, we should do what is right, not what is politically expedient.”

192 Ibid.
193 Ibid.
194 Ibid.
Schulze argued that even if the students did not want it and even if it would not work or make the situation worse, the U.S. should still revoke MFN because “we should do what is right, not what is politically expedient.” Schulze’s belief that policymakers should do what is right regardless of what the Chinese students wanted reflects a pure absolutist reasoning, while the arguments of Pelosi, Lantos, and Solomon reveal an absolutist reasoning that is reinforced by the backing of Chinese dissidents.

Another exchange that displays the reinforcement of the position of morally-credible actors was one between Representatives Salmon and Pelosi. Pelosi had moral credibility due to her long history of fighting for human rights in Congress, while Salmon did not as a newcomer to Congress. As evidenced by Wu’s earlier statement, Salmon was not perceived as a policymaker who could legitimately speak on behalf of human rights activists.

As a newcomer to Congress, Salmon offered a fresh perspective on the problems with conditioning MFN to improve human rights. He first recognized the moral clout of those legislators that were seen as human rights warriors and gave them due respect: “You know, I think there are few people not only in Congress, but in the world, that would parallel the commitment you have, Representative Pelosi, or you, Representative Smith, or Representative Wolf or any of the people who have been such warriors when it comes to the human rights issue.”

He also affirmed his horror toward human rights violations in China: “In fact, I would agree completely with the Chairman that the situation in China is deplorable, the situation of their forced

---

abortion policies, the sale of organ transplants. We could go through the whole litany of things that I think would nauseate and sadden most Americans were they made as public as they have been to the Members of Congress. Those things are deplorable.”

Yet, he questioned the conditioning of MFN renewal as the best means to better respect for human rights in China. He asked the important question of whether or not it would actually lead to the kind of deeper change necessary for human rights improvements: “Do we think that magically if we revoke MFN that then [the leaders in China] are just going to cower and say well, we are afraid of the United States? They have pulled away a great source of the people’s income over here. We are now going to go the other way. We are going to improve all of these things. We are going to bow down to the needs or wants of the United States.”

Addressing Pelosi, Salmon also made astute observations about the dynamics of the MFN debate:

I think it is kind of sad that in Congress since I have been here my short year and a half now that all too often when we get into debates on issues, some characterize the tactics as the end-all to the problem itself. …

I get discouraged when I see people challenging motives of one another when a person takes a position-obviously if you voted such and such, you do not care about the environment or you do not care about children-when simply we have different ways of getting to the end objective.

I do not think that there is anybody that cares more about the issues … that I mentioned than you or Representative Smith. There are a lot of us who care equally about those issues, but we do not necessarily want to employ the same tactic because we are not sure that that will work. …

---

196 Ibid.
197 Ibid.
Salmon points directly to the two mechanisms that seem to be perpetuating the use of coercive methods for human rights promotion: 1) the symbolic association of sanctions with the moral option such that whether or not this method achieves the desired ends is not really important and 2) the moral polarization of the debate such that those who want to be perceived as really caring about human rights are tied to MFN conditioning.

Pelosi found some of Salmon’s claims to be unconvincing and naïve. She stated to Salmon:

I accept in the spirit of which it is extended your kind remarks about the motivation of some of us who are involved in this issue. It is not only about motivation. It is about the practicalities of it. The reason we did not stand by our statement that we would change our target, condition, renewal or whatever it is on MFN to China had nothing to do with what you just said. It had everything to do with big business, a few elite industries in the United States, weighing in with the Administration to change the policy. It had nothing to do with this being a better way to improve human rights. 199

Though directing her comments to Salmon, Pelosi seems to be responding to a larger set of claims made by Administration officials and businesspeople that they were for MFN renewal because it would be a better way to encourage human rights improvement. Rather than considering the validity of Salmon’s arguments about the potential ineffectiveness of MFN conditioning for human rights improvements, she pulled the debate back into its morally polarized state of principle versus profit.

Entrapped in the sanctions-are-the moral-approach mindset, Pelosi also demonstrated an inability to think outside of the sanctions box. Responding to

199 Ibid.
Salmon’s claims that symbolic pro-democracy figures like Martin Lee and Wei Jingsheng supported the maintenance of MFN relations with China, she stated:

Martin Lee is a great hero of democracy in the world. Many of the people that have been mentioned here today are. They all, and I will take the risk of speaking for them, support some kind of economic sanctions with China. Most Favored Nation status may not be the one in particular, but we have tried everything. World Bank loans. We have tried the Export-Import Bank. You name it. We have tried everything. You start with a feather, I always say, and hopefully you do not have to get too much farther along in terms of what tactic you have to use to deliver the message.200

When Pelosi said “we have tried everything” she only referred to all the possible sanctions that could be employed but not alternative means of influence. When she spoke of “tactics” she mentioned different sanctions and ratcheting up the severity of the sanction but still sanctions. These were not different tactics.

Pelosi, Smith, and Wolf were all considered to be long-time human rights warriors in Congress, and, thus their suggestions held greater weight than newcomers to Congress like Salmon. In legislative deliberations reputations mattered and not just the strength of arguments even among politicians. Salmon’s newcomer status seemed to be why his suggestion during a 1997 hearing that Congress create a human rights commission modeled after the U.S. Helsinki Commission as an alternative to sanctions never garnered any support. He suggested:

There are ways the United States can exert pressure and influence on China that would not bring an end to our relationship. For example, I have advocated the establishment of a Commission on Security and Cooperation in Asia, which would be modeled on the Helsinki Commission that has had great success in Europe.

---

The United States could develop a prisoner information registry in order to ascertain the dissident population currently in prison during meetings with Chinese officials. In addition, it is vital that we expand engagement between the U.S. Congress and the People’s Congress through an inter-parliamentary exchange. Such meetings would increase understanding between two very different cultures as well as to provide access to our legislative process and legal system at a time when rule of law appears to be gaining greater importance in China.\textsuperscript{201}

When Salmon proposed the establishment of such a commission in 1997, there were no supporters. He also never formally introduced a bill for this purpose. It was a good idea and one well within the U.S. repertoire, yet it was not proposed by someone who had high moral standing in Congress when it came to human rights issues.

\textbf{WHAT THE GOOD PEOPLE WANTED: PRISONER RELEASES}

In the context of a morally polarized debate, the voices of morally credible people were amplified. Policymakers reasoned that they should be guided in their decision by those on the frontlines of the human rights battle—Chinese political dissidents and those who claimed to represent them. We know that many prominent dissidents and mainstream human rights groups were calling for sanctions, but why was this their tool of choice?

\textbf{HUMAN RIGHTS WATCH}

The most vocal human rights organization in the MFN debates was Human Rights Watch (HRW). Representatives from HRW were active in both testifying in Congressional hearings and in writing editorials in \textit{The New York Times} and \textit{The Washington Post}. HRW describes itself and its work on its website: “Human Rights Watch is one of the world’s leading independent organizations dedicated to defending

\footnotetext{\textsuperscript{201} House Ways and Means Committee, \textit{U.S.-China Trade Relations and Renewal of China’s Most-Favored-Nation Status}, 105\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1997.}
and protecting human rights. By focusing international attention where human rights are violated, we give voice to the oppressed and hold oppressors accountable for their crimes. Our rigorous, objective investigations and strategic, targeted advocacy build intense pressure for action and raise the cost of human rights abuses.”\textsuperscript{202} HRW distinguishes itself from Amnesty International by its policy focus. They state in the FAQ portion of their website:

Human Rights Watch and Amnesty International, the largest global human rights organizations, have differing, yet complementary, roles. Human Rights Watch tends to look at more systemic human rights abuses and be more policy oriented. \textit{We put pressure on governments by exposing abuses through the media, and by convincing powerful leaders or stakeholders to use their influence on behalf of human rights.} Amnesty International also investigates and reports on abuses and derives its real strength from being a mass membership organization. The world needs both.\textsuperscript{203}

During the MFN debates, representatives from Amnesty International were present but refrained from making specific policy recommendations. For example, when T. Kumar, Advocacy Director for Asian Pacific Programs at Amnesty International USA, testified in a Congressional hearing he stated, “Amnesty does not take a position on a number of issues, including linking human rights to economic sanctions. … However, we strongly believe that the protection of human rights around the world should be taken into consideration whenever U.S. foreign policy is addressed.”\textsuperscript{204} In contrast, HRW representatives did not shy away from taking policy stances, most notably calling for sanctions against China in multiple forms.

\textsuperscript{204} Senate Finance Committee, \textit{The Renewal of Most Favored Nation Status for China}, 105\textsuperscript{th} Cong., 1\textsuperscript{st} sess., June 10, 1997.
As evidenced by their self-description and the FAQ response, a critical part of HRW’s work is “pressure.” In their mission statement, they write that they aim to “build intense pressure for action.” In the FAQ response, they write, “We put pressure on governments by exposing abuses through the media, and by convincing powerful leaders or stakeholders to use their influence on behalf of human rights.” Kenneth Roth, Executive Director of HRW, describes the organization’s methods in detail in an article in *Human Rights Quarterly*. He states:

> In my view, the most productive way for international human rights organizations, like Human Rights Watch, to address [economic, social, and cultural] rights is by building on the power of our methodology. The essence of our methodology … is not the ability to mobilize people in the streets, to engage in litigation, to press for broad national plans, or to provide technical assistance. We are at our most effective when we can hold governmental … conduct up to a disapproving public. …

> The principal power of groups like Human Rights Watch is our ability to hold official conduct up to scrutiny and to generate public outrage. The relevant public is best when it is a local one—that is, the public of the country in question. Surrogate publics can also be sued if they have the power to shape the policies of a government or institution, with influence over the officials in question, such as by conditioning international assistance or trade benefits, imposing sanctions, or pursuing prosecution (Roth 2004: 67).

HRW’s chief means of affecting human rights policy is “to generate public outrage.” Roth remarks in the article that HRW can both capitalize on existing public outrage or frame issues in moral terms in order to generate outrage. In the case of the MFN debates, HRW capitalized on the existing moral outrage generated by Congress and the media toward the Tiananmen crackdown and toward a weak Bush policy. What type of action is HRW hoping to facilitate as a result of public outrage? Roth states that HRW seeks actions like “conditioning international assistance or trade benefits, imposing sanctions, or pursuing prosecution.” Among the government actions
available, HRW focused on sanctions. They were not the originators of this policy idea, rather their actions were dependent on the government slate of policy options.

Why sanctions and not another approach? In examining HRW’s justifications for sanctions, they preferred this approach because it led to visible results—namely, the release of political prisoners. Holly Burkhalter from HRW emphasized this goal of prisoner releases in a 1990 hearing:

In trying to find a ground for Asia Watch between the two positions [of conditioning versus revocation], it seems to me the question for us comes down to just a very simple one: How do you get the most prisoners out? You get the most prisoners out by suspending it and saying, ‘Come back to us in a year, and we will talk about it again if you have released some prisoners,’ or do you get the most prisoners out by saying, ‘We are going to look at you again in six months or a year, and we are going to count,’ and I don’t know the answer to that question. I don’t know how you get the most prisoners out …

To Burkhalter’s statement, the chairperson of the hearing Stephen Solarz responded, “I think you have framed it beautifully.” For Burkhalter the chief condition that she believed that the U.S. government should attach to MFN renewal was the release of all political prisoners. For HRW a clear measure of human rights violations was the number of political prisoners. In assessing the state of human rights in China during a Congressional hearing in 1993, Robin Munro, a research associate at HRW stated, “The human rights situation in the mid-1980’s was much better than it is in China today. … Tiananmen was a massive retrogression, and it will take the Chinese Government enormous measures to pull itself back even to where it was in the mid-

---

206 Ibid.
In 1997, Thomas Friedman criticized the approach of the Clinton Administration and human rights organizations in a *New York Times* editorial. He claimed, “To this day the U.S. has no principled, long-term strategy for engaging China on human rights. This Administration does human rights by sound bite or by name-tag (‘Won’t you please just release this list of dissidents from jail’), but with no strategy for engagement. Most of the human rights activists aren’t much better. They compete for who can huff and puff at China the loudest, but they have no credible strategy for promoting human rights in China in any orderly fashion.”

Sidney Jones of HRW responded to Friedman’s criticism in a letter to the editor:

Thomas L. Friedman (column, Nov. 3) is correct to criticize the Clinton Administration for substituting sound bites for strategy on human rights in China, but he is wrong to suggest that the answer lies in a single-minded focus on the rule of law. Encouraging legal reform is a crucial long-term objective, but what about the short-term goal of ending suffering? Working for prisoner releases, access to prisons and ending forced labor is not just ‘huffing and puffing.’ If done properly, it involves identifying what China wants – like summit meetings or access to the World Trade Organization – and figuring out how to use those desires for human rights ends. It involves a commitment of time and resources on the part of the Administration to lobbying like-minded governments to support joint action at the United Nations Human Rights Commission. It involves a willingness to play hardball on occasion. And it involves engaging the private sector more fully and in a more sophisticated way than the Administration has done thus far.

---

Jones articulated the sanctions logic succinctly as “identifying what China wants … and figuring out how to use those desires for human rights ends.” She justified this approach because it contributed to “the short-term goal of ending suffering.”

At the same time, HRW also recognized elsewhere that prisoner releases did not necessarily indicate “real” change in the human rights situation in China. When China agreed to release Wang Dan, a leader in the Tiananmen Square democracy movement, Washington director of HRW, Mike Jendrzejczyk, warned that the celebration should be muted: “Releasing prisoners when it means sending them abroad does not indicate a change of policy or attitude on the part of the Chinese. … Of course we would welcome Wang Dan’s release, but we would urge the Administration to insist on more meaningful reforms in exchange for Clinton’s visit to Beijing.”

The carrot in this situation is a presidential visit to Beijing. And the outcome is not a “meaningful” change. Kenneth Roth, executive director of Human Rights Watch, was cited as calling for “an end to ‘hostage politque’ in China relations: ‘bargaining for the release of individuals without changing the underlying structure that allows the Chinese Government to detain thousands of others in jail and to make new arrests.’”

Thus, HRW seemed to strategically use evidence of prisoner releases, sometimes as evidence of improvement and sometimes as evidence of not enough improvement. Though recognizing that prisoner releases were not indicative of systemic change, HRW did not offer an alternative strategy which would produce these deeper changes.

**EXILED CHINESE DISSIDENTS**

---


In addition to HRW, the people who cited prisoner releases as evidence of the potential effectiveness of sanctions were exiled Chinese dissidents. Famous activist Fang Lizhi testified during a 1994 hearing:

In terms of the improved human rights record in China, I would say that MFN has been an effective tool. Some politicians argue that the Chinese authorities will not bend to pressure from outside. I say this is not true. *I would not be sitting here before you today without pressure from the MFN study.* Without the efforts of the Members of Congress and the administration, it would not be able to happen, like last year the famous dissidents like Xu Wenli and Wei Jingsheng who were released. The pressure has also worked in getting the Chinese authorities engaged in a dialog on human rights. The demands for such dialog from the rest of the world in exchange for economic opportunities and the benefits for the Chinese has been the only reason the Chinese Government has retreated from the previous position that the human rights is an internal affair of China.²¹³

If one has the very physical and visible evidence of a freed dissident’s testimony that the pressures created by the MFN discussion work, then counter-evidence of the historical ineffectiveness of sanctions decreasing repression in the target country might not matter. During a 1999 hearing, Benjamin Gilman cited Wei Jingsheng’s rationale against giving China PNTR: “Wei testified that during his 18 years as a political prisoner, the attitude of prison authorities toward political prisoners was directly related to the amount of pressure being exerted by the international community. When international pressure was high, fewer dissidents were arrested and prison conditions were not so bad as at other times. But when the pressure eased up, the hard-line faction prevailed and conditions became worse.”²¹⁴

president of the National Council for Chinese Affairs, also cited the release of famous
dissidents, including Wei, as the reason why the U.S. should continue to threaten the
MFN sanction:

The importance of international pressure on China to improve its
human rights cannot be emphasized enough. The most effective policy
tool to date impacting Chinese authorities’ behavior on human rights
has been MFN. Those who argue it is not the correct vehicle are simply
ignoring the facts. …
For example, two famous Chinese dissidents, Wei Jingsheng and Xu
Wenli, they know that Western pressure advanced human rights in
China. It got them out of prison. Both hope the United States will
remain tough and continue to use MFN to gain further human rights
concessions.\textsuperscript{215}

Thus, exiled Chinese dissidents and the most influential human rights organizations,
the groups with the most moral credibility in the midst of a morally polarized debate
supported sanctions because of an orientation toward the goal of prisoner releases.

Internal Chinese dissidents, on the other hand, revealed an orientation toward
systemic changes. Recall that when Dai Qing, an internal Chinese dissident, testified
in a Congressional hearing she specifically criticized this short-term gains approach.
She asserted, “What is important to me is not how we are going to bring a few fellows
like Harry Wu or others back to power or in the government, but rather more
important, to deconstruct that structure that maintains the authoritarian government in
the first place.”\textsuperscript{216} She also stated, “So I think every year the annual criticize and
annual check is good for us, for the political prisoner or political dissident, this kind of
person. I, myself, I get benefit from your strong criticism, or even negotiations, human

\textsuperscript{215} House Ways and Means Committee, United States-China Trade Relations, 103\textsuperscript{rd} Cong., 2\textsuperscript{nd} sess., 1994.

\textsuperscript{216} Senate Foreign Relations Committee, Granting of Permanent Normal Trade Relations Status to the
People’s Republic of China and Its Implications on Families, Labor and Human Rights, Trade and the
Economy, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2000.
rights negotiations. But it does, I think, very little for the whole society, for the ordinary people.”

THE MEDIA

Feeding this prisoner release cottage industry were media reports that continually attributed Chinese human rights improvements to U.S. pressure. In the media, the release of political dissidents was frequently attributed to U.S. threats to revoke China’s MFN status. Timely releases of dissidents by the Chinese government were interpreted as responses to U.S. threats to take away trade “privileges.” When Xu Wenli was released, Sheryl Wu Dunn wrote, “The Government today freed a prominent pro-democracy campaigner who had spent the last 12 years in solitary confinement, and the move appeared to be an olive branch to President Clinton just before he decides on extending trade benefits to China.” Steven Greenhouse reported similarly of the release of Tibetan dissidents, “In what a human rights group said was an effort to appease Western concerns about human rights violations, China announced today that it would free two Tibetan dissidents.” He cited a State Department spokeswoman as saying that “the release ‘is definitely a step in the right direction on the part of Chinese authorities. This is the type of thing, of course, the concrete thing we’re looking for.’” These releases of dissidents were seen as “the type of … concrete thing” that U.S. actors looked for. Moreover, the release of

---

217 Ibid.
220 Ibid.
dissidents and most “human rights improvements” for that matter were always framed in U.S. newspapers as the result of U.S. action.

The Chinese government did not agree on the meaning that U.S. actors accorded to the releases. While pragmatically getting what they were asking for—the release of dissidents—U.S. actors were not getting the kind of admission of human rights problems that they sought. The U.S. government often asked for the release of dissidents on the basis of “medical parole,” not on the basis of human rights but then proclaimed to the American public that their pressure worked. In the following report of Wei Jingsheng’s release we see a battle over interpretations of the meaning of this event: “As a principal symbol of China’s human rights struggle, Wei Jingsheng made headlines around the world last week when Chinese authorities finally released him from 18 years as a prisoner of conscience. Ostensibly put on a flight to the United States so he could get medical treatment, Mr. Wei was really a concession to international pressure and, at the same time a political figure so powerful that Beijing’s leaders are glad to see him in exile.” Whether Wei was released due to medical reasons or due to international pressure or due to his significance as a “symbol of China’s human rights struggle” was open to interpretation. When Clinton met with President Jiang Zemin, he sought Wei Jingsheng’s release and, according to an anonymous Administration official, the Chinese response was to “[indicate] … that a medical parole was a possibility.” According to the journalist, “The White House

---

clearly regarded the Chinese move as a response to American pressure and as a human rights victory. It is evident that the release of Wei Jingsheng was open to interpretation and that the Chinese government and American government were interpreting it in different ways.

HRW justified the use of sanctions by asserting that they helped to secure the release of political prisoners. Released political prisoners, like Fang Lizhi and Wei Jingsheng, when exiled in the U.S. also became advocates of sanctions, testifying that this international pressure had led to their release. Media reports celebrated the release of political prisoners as the outcome of U.S. pressure. Thus, a cycle formed by which the threat of sanctions led to prisoner releases and these released prisoners would call for additional sanctions to release other political prisoners.

**CONCLUSION**

By examining the public deliberations surrounding the MFN decision we more clearly see why the arguments that sanctions are ineffective and hurt the wrong people have little impact in deterring sanctions advocacy. In the context of a morally polarized debate, assessments of moral credibility become salient. Those arguing that sanctions would not be effective and would hurt the wrong people lacked moral credibility, and, therefore, these criticisms were blunted. On the other hand, the arguments of those who possessed moral credibility, famous Chinese dissidents, mainstream human rights groups, and long-standing human rights warriors in Congress, were amplified. What did these “good people” want? They wanted sanctions in the form of conditioning China’s MFN renewal on human rights

\[223\] Ibid.
conditions, and they wanted this because it was framed as the moral option, because it was what the “good people” wanted, and because they were convinced of their effectiveness for achieving the goal of prisoner releases. Therefore, both claims of ineffectiveness coming from the wrong people and narrow claims of effectiveness coming from the right people enabled policymakers’ support for problematic tool of sanctions.

On the one hand, these findings are encouraging for deliberative democratic ideals in that the voices that are heard are not simply the voices of those with greater material resources or simply white, male, native speakers of English. The business people, though they had the most material resources for lobbying, were discredited due to their lack of moral credibility. We also see an interesting international dynamic of public deliberation whereby the victims of Chinese human rights abuses and those who would be affected by the MFN decision had a voice in the matter. Another form of inequality that is surprisingly absent is the privileging of politicians’ input above the input of outside witnesses (Button and Mattson 1999). On the other hand, we see new forms of inequality. Those who were assessed as having the purest intentions in regard to human rights issues—Chinese human rights activists and their claimed representatives—had a strong influence upon the deliberations. Moreover, not all human rights activists had an equal voice. Famous activists like Wei Jingsheng and Harry Wu and mainstream human rights organizations like HRW appeared to have greater influence upon legislators than unaffiliated people or marginal organizations.

Who one was mattered and not just the strength or weakness of one’s arguments. During the hearings, deliberators expended a good amount of time and
energy trying to identify who people were and what their intentions were. These identifications then changed one’s view of the argument. This is problematic for the ideal of deliberative democracy where the force of the better argument is supposed to reign supreme. At the same time, it is difficult to discern the force of the better argument. Some deliberative democratic theorists argue that the better argument is whichever is “convincing to all citizens” (Bohman 1997: 322). If all citizens accept that the best way to make foreign policy is by giving greatest consideration to the suggestions of those with the greatest moral credibility or the purest intentions, even if these suggestions would not work and by other standards might be unethical, then is that the better argument still? In the case of public deliberation in a morally charged setting, policymakers dismissed criticisms of sanctions and suggestions of alternatives due to moral inequality.
CHAPTER 5
PRINCIPLE AND PROFIT:
THE SEARCH FOR A CHEAPER SANCTION

We’re back to the same problem again. This time we’re juggling the interests of the business community and human rights, and discovering that it’s an impossible balancing act.

-- Senior Administration Official (1995)

The reason we did not stand by our statement that we would change our target, condition, renewal or whatever it is on MFN to China … had everything to do with big business, a few elite industries in the United States, weighing in with the Administration to change the policy. It had nothing to do with this being a better way to improve human rights.

-- Nancy Pelosi, House International Relations Committee Hearing (1996)

Despite a powerful Congressional push for conditioning MFN renewal upon human rights conditions, both Bush and Clinton ultimately decided to renew China’s MFN trade status without conditions every year. Why, given all the moral support behind the MFN sanction, was it ultimately defeated? Were public deliberations powerless to influence the policy decision? Is the executive branch free from legislative and public accountability when it comes to foreign policy? In this chapter, I demonstrate how though public and legislative deliberations created pressure for the “moral” action of sanctions, the executive branch decided that the MFN sanction would be too economically and politically costly. Therefore, Bush and Clinton decided to use less costly sanctions that would fulfill the public and Congressional mandate for moral action but not hurt the U.S. too badly. Public and legislative deliberations forced the executive branch to have to justify their decision in moral terms even if their decision was guided by calculations of costliness. Since it would be impossible to justify not taking any action, the executive branch instead proved its morality through
the use of alternative sanctions. The executive was, thus, influenced by public and Congressional deliberations as well as concerns about cost.

Concerns about economic costliness were the greatest impediment to the employment of the *MFN* sanction. However, calculations of economic costliness did not undermine the sanctions *logic*. They simply forced policymakers to search for a cheaper alternative to MFN revocation, to search for a cheaper sanction. Sanctions were still considered to be the moral option. The moral association was not erased. It was not consequentialist arguments that sanctions would not work and would hurt the wrong people that stopped the employment of the MFN sanction, it was the consequentialist argument that MFN revocation would hurt the U.S. too much. That is, selfish rather than altruistic, arguments impeded the employment of the MFN sanction.

Despite the persistent push by human rights advocates to link China’s MFN trade status to its human rights performance, the U.S. never actually applied this economic sanction. Though Congress pressed for the use of MFN as an economic sanction, it did not have the votes necessary to overturn the annual presidential decisions to renew China’s MFN status. I examine why the specific stick of MFN was questioned but the underlying policy idea of using sanctions for human rights purposes was not. The main challenge to the application of the MFN sanction came from the business community and the U.S. executive branch of government. Both of these groups used the limited consequentialist reasoning that the use of MFN as a sanction for human rights goals would be *too costly*. Although some of these opponents argued that sanctions would be ineffective and inhumane, they also advocated the use of alternative sanctions that were also of dubious effectiveness, which demonstrates that
their opposition was to the specific stick of MFN and not the use of sanctions for human rights purposes in general.

**THE BUSINESS LOBBY: MFN TOO ECONOMICALLY COSTLY**

The most vocal opponent of tying MFN renewal to human rights improvements was, not surprisingly, the business community. They consistently argued throughout the MFN debates that revoking MFN would be extremely costly for their businesses. Businesses and business groups that urged Congress to extend China’s MFN status due to the costliness to American companies included the American Association of Exporters and Importers, North American Grain Association, NMTA – The Association for Manufacturing Technology, Russ Berrie, National Association of Manufacturers, National Association of Wheat Growers, Footwear Distributors and Retailers of America, Toy Manufacturers of America, Fashion Accessories Shippers Association, Tonka, Washington State China Relations Council, American Ski Federation, Motorola, National Retail Federation, American Textile Manufacturers Institute, United States Association of Importers of Textiles and Apparel, American Insurance Association, Ohsman & Sons, National Foreign Trade Council, Emergency Committee for American Trade, U.S.-China Business Council, Tyco, CHINDEX, Society of the Plastic Industry, and the U.S. Chamber of Commerce.

U.S. companies argued that revoking China’s MFN status would be costly to businesses, workers, and consumers. During a 1993 hearing, Donald Anderson, president of the U.S.-China Business Council summarized the main consideration for U.S. businesses: “As spokesman for the U.S.-China Business Council and the U.S.
business community, I can state unequivocally that withdrawing or conditioning MFN
would be a recipe for disaster for U.S. workers, for U.S. consumers and employers,
and it could lead to the loss of over 150,000 jobs, $8 billion in lost exports, and at least
$14 billion in higher import prices for American consumers.” In 1992, he provided
a more detailed breakdown of the cost to specific U.S. industries:

Agricultural sales: American agricultural sales to China last year
totaled nearly $1 billion, and wheat sales alone were $500,000. American farmers would lose market share in China, which will remain
a major and growing market over the next decade and beyond. Alternative suppliers of wheat are available in Canada, Australia,
Argentina, and Europe.

Commercial aircraft: Sales have averaged over half a billion dollars
annually over the past 5 years, and exceeded $700 million in 1990. Boeing and McDonnell Douglas are currently competing for a contract
to coproduce a trunkline aircraft for China which will be worth nearly
$10 billion over the next decade. The European-subsidized Airbus is waiting in the wings if most-favored-nation is withdrawn.

Fertilizer: U.S. exports to China have more than doubled over the past 10 years and exceeded more than $500 million last year. The priority
attached to agriculture ensures that China will continue to purchase
large quantities of phosphate fertilizer, but alternative suppliers in North Africa are available.

Textiles: American cotton farmers and fabric manufacturers now sell
$280 million a year to China. Denial of most-favored-nation for China would also have an adverse
impact on American consumers and retailers. Without most-favored-
nation status, duties on imports from China would rise on average from
about 8 percent to 50 percent, costing American consumers and
retailers an extra $6 billion.

A clear theme in the business lobby’s plea for MFN renewal was that other countries
would quickly fill the voids left by the exit of U.S. trade from China. They claimed

---

that they U.S. would no longer be competitive in the international market due to the rising tariff rates created by MFN revocation.

Fermin Cuza, director of the American Association of Exporters and Importers (AAEI) and assistant treasurer of foreign trade services of Mattel, Inc., well-exemplifies the arguments of U.S. companies during the MFN debates in his testimony before the House Ways and Means Committee in 1990. He testified:

I think I speak for all Americans when I say the events in Tiananmen Square and subsequent crackdowns should be condemned, and the United States should not condone such acts by any government. However, before the U.S. Government essentially cuts off a normal commercial relationship with that country we ask that you consider the following:

Number one, in the short- or medium-term, denial of MFN treatment for China will threaten the viability of U.S. small businesses, impose enormous costs on larger U.S. manufacturers and retailers, lead to loss of U.S. jobs, cut off $6 billion of U.S. exports to China, and come at the expense of U.S. consumers least able to pay.

Two, denial of MFN will cause havoc in the international marketplace, driving up prices both here and abroad as U.S. firms compete for more limited more costly supplies elsewhere in the world.

Three, trade sanctions imposed for foreign policy purposes have not proved effective in the past, especially if they are applied unilaterally and will only reinforce some views that U.S. businesses are unreliable partners.

Four, as suggested by the United States-China Business Council, Congress should allow U.S. firms to make that decision cushioning the negative impact of price increases and economic dislocation.

Five, denying MFN treatment will severely injure Hong Kong and those most liberalized free-market sectors of the Chinese economy that have developed explicitly because of trade with the West.

And finally, there are many actions which this Government could yet take short of a total break in trade relations implicit in denial of MFN, including those multilaterally agreed upon sanctions already in place.\footnote{House Ways and Means Committee, \textit{United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.}
He, first, fulfilled the cultural imperative set by the moral framing of the debate to express his horror toward the events that occurred in Tiananmen Square. He, then, spoke of the costliness of revoking China’s MFN status, claiming it would hurt small businesses, larger manufacturers and retailers, workers, and consumers. His argument reflects a degree of public-spiritedness in that he mentioned the potential cost not only to American businesses but also to American workers and consumers. Cuza also claimed that trade sanctions had not been historically effective for achieving foreign policy goals. (Yet, we saw how human rights activists dismissed these arguments because they came from people with business interests.) Finally, he suggested that instead of revoking MFN, the government should use multilateral sanctions that were already in place. Thus, he opposed the use of MFN specifically but not the use of sanctions in general for foreign policy purposes.

Business groups were not opposed to the sanctions imposed on China immediately after the Tiananmen Square crackdown. They were not opposed to all sanctions, just those that were costly to them. In a 1990 hearing, Representative Stephen Solarz (D., New York) asked Roger Sullivan, president of the U.S.-China Business Council, directly about whether he supported the previous sanctions. Sullivan responded, “I thought that the sanctions … were appropriate.”227 U.S. companies did not have a problem with the carrot-stick logic, they had a problem with the specifically chosen stick of MFN. In another 1990 hearing Stephen Shank, chairman and CEO of Tonka Corporation, claimed that MFN revocation would be too

drastic. He stated, “We would hope that perhaps the Government could try to find important pressure points to put on China to find something less drastic, less Draconian than the MFN stick. Things like our refusal to support international lending institutions which may have supported projects in the past to try and exercise very visible influence with China.”

Shank was against a sanction that would hurt U.S. businesses, but he was not opposed to sanctions, like loan refusals, which would not financially dent U.S. businesses.

Many opponents to tying China’s MFN renewal to human rights conditions did not question the underlying logic behind sanctions, rather they pointed out specific problems with MFN as a stick for human rights purposes. Robert Hall of the National Retail Federation called MFN revocation “too heavy a weapon.”

Harry Pearce, vice chairman of Tyco Toys and representative for the Toy Manufacturers of America, also spoke of MFN as a “weapon,” one which was “simply too blunt and devastating a weapon with which to pursue U.S. objectives.”

Affirming the objectives of MFN revocation proponents but disagreeing with the means, Anderson of the U.S.-China Business Council stated, “We do not oppose the objectives of those who would support conditions on MFN. In fact, we applaud and share these objectives. But we do object to lumping all of our grievances with China under the unwieldy and inflexible

---

228 House Ways and Means Committee, United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC, 101st Cong., 2nd sess., 1990.
229 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
MFN umbrella.”231 For Anderson, MFN was too “unwieldy and inflexible.” William Overholt of the American Chamber of Commerce in Hong Kong equated revoking MFN for human rights purposes to the equivalent of using a nuclear weapon to get small concessions. During legislative deliberation, Representative Solarz put Overholt on the moral defensive:

Mr. SOLARZ. Is there anything China could do that would lead you to the conclusion we should not continue MFN? Or regardless of what they did-let us say they went back to the Cultural Revolution. Supposing people started to get paraded in the streets with dunce caps on.

Mr. OVERHOLT. Absolutely. Take it away absolutely.

Mr. SOLARZ. Supposing the daughters of people like Nien Cheng got tossed out of the fourth story of their buildings where they were being tortured. Supposing hundreds of thousands of people were suddenly swept off and sent off to the Chinese gulag. Would you say we should still continue it?

Mr. OVERHOLT. I would say first of all I would endorse what Dick Holbrooke said earlier. We gave them MFN essentially in return for good international behavior. They are giving us that good international behavior with some very important footnotes but nonetheless they are giving us that. If that were to change, then we would certainly take it away.

Yes, if they went back to the Cultural Revolution—which would destroy all the kinds of beneficial economic cycles I am talking about and therefore destroy all the positive human rights benefits of trade. Yes we should take it away. Absolutely.232

Overholt asserted that the threat of MFN revocation should only be used in the most extreme of circumstances and when there were no longer economic benefits or human rights benefits to trade. The problem for him was that MFN was too significant of a weapon to be used in human rights combat. When Representative Don Pease (D., Ohio) asked Robert McNeill of the Emergency Committee for American Trade why

---

the business community supported intervention in human rights problems in the Middle East but not China, McNeill bluntly responded: “The answer to your question, Mr. Pease, is that we in business object when we are the instrument used as the means of the United States expressing its opposition in foreign abuses of human rights. If the expression is a shared one, if there is a multilateral agreement to embargo goods or deny them to a country, that is one matter, but in most instances the United States Government does it unilaterally, and that is where we in the U.S. business community suffer extreme penalties.”

McNeill opposes the costliness to U.S. businesses that accompanies the use of unilateral sanctions for human rights purposes. Again, McNeill does not oppose sanctions, he opposes sanctions that are particularly costly to U.S. businesses because they are unilaterally imposed.

THE EXECUTIVE BRANCH: JUGGLING INTERESTS

Though the executive branch used a number of justifications for MFN renewal, what the decision seemed to come down to was a calculation of U.S. interests and a need to balance competing interests rather than an attempt to find the most effective solution. Richard Solomon, Assistant Secretary of State for East Asian and Pacific Affairs, described the policy dilemma facing President Bush after June 4, 1989:

The dilemmas of our current China policy bring to mind F. Scott Fitzgerald’s observation that the mark of a first-rate intellect is the ability to keep two opposing ideas in one’s mind and still be able to function.

The foreign policy equivalent is the effort to balance the competing demands of hard-nosed national interests and our national values, aspirations and ideals. Our post-Tiananmen approach to China has been a consistent effort to preserve some essential elements of a key

---

relationship that serves important national interests while at the same time sending a clear message that aspects of Beijing’s human rights performance have been, and remain, unacceptable and preclude a fully normal relationship.\textsuperscript{234}

Solomon described the situation much like Weber described the classic political tension between passion and calculation, stating that the U.S. government needed to balance “hard-nosed national interests” and “national values, aspirations and ideals.” A senior Clinton Administration official expressed a similar dilemma of balancing interests in a \textit{New York Times} article. He stated, “We’re back to the same problem again. … This time we’re juggling the interests of the business community and human rights, and discovering that it’s an impossible balancing act.”\textsuperscript{235} Thus, the U.S. executive consistently viewed the problem as one of competing interests—revealing that they, too, had succumb to the principle versus profit framing of the decision. The solution for both the Bush and Clinton administrations was to renew MFN to serve U.S. economic and political interests but to continue sanctions of some form to satisfy the moral imperative set by public and legislative deliberations.

\textbf{DIALOGUE IS NOT ENOUGH}

Both the Bush and Clinton administrations tried to present “dialogue” as an alternative to sanctions, however, this did not appease governmental and non-governmental human rights activists who saw dialogue as insufficient. Those calling for a principled approach argued that actions would speak louder than words. Nina Shea of Freedom House testified at a 1997 hearing, “I think we really have been doing

\textsuperscript{234} House Foreign Affairs Committee, \textit{Most-Favored-Nation Status for the People’s Republic of China}, 101\textsuperscript{st} Cong., 2\textsuperscript{nd} sess., 1990.
a lot talking and no one is listening over there. That is a monologue we’re engaged in, not a dialogue. And that therefore, we have to put some bite into it and we have to start thinking of sanctions.”\footnote{Representative Gerald Solomon (R., New York) also expressed the need for more than just talk: “This has got to stop … and words will not stop it. Rhetoric will not stop it. Sitting down and talking will not stop it. They need to be shown. We have the economic power to bring pressure to bear on these tyrants and we ought to use it … Terminating MFN is the first and best place to start … When the vast American market is shut off, believe me, these greedy dictators will start to show a little more flexibility.”\footnote{When China was offering “dialogue” in exchange for a stop to sanctions threats, Mike Jendrzejczyk of Human Rights Watch, urged the administration not to cave in: “I am afraid that the administration is being bought in by this idea that dialogue alone, talk, that is, but not action, which is the Chinese Government’s now-preferred methodology, is sufficient. I just don’t think it is.”\footnote{The Bush Compromise: Renew MFN While Stressing Tiananmen Sanctions}}

In order to justify the renewal of MFN, the Bush administration continually reminded supporters of MFN revocation that they had already applied sanctions. The compromise between “hard-nosed national interests” and “national values, aspirations and ideals” that the Bush administration formulated, according to Lawrence Eagleburger, Deputy Secretary of State, was “a considered mix of engagement and

\footnote{House International Relations Committee, \textit{Human Rights in China}, 105\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1997.} \footnote{House Ways and Means Committee, \textit{United States-China Trade Relations and Renewal of China’s Most-Favored-Nation Status}, 104\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1996.} \footnote{Senate Finance Committee, \textit{President’s Renewal of Normal Trade Relations with China}, 105\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1998.}
sanction.” Richard Solomon explained why Bush had decided to renew MFN during a 1990 hearing:

I would like to emphasize that the President has decided in favor of extending China’s MFN status because it serves clear U.S. interests: in promoting our objectives—of reform, modernization, and the advancement of human rights; of maintaining productive official contacts; of protecting the interests of American business and American consumers; and in working to maintain Hong Kong’s stability and future vitality.

The extension does not in any way imply acquiescence to political repression and human rights violations. The measures initiated by the President in June 1989—suspending arms exports and high-level governmental exchanges, and seeking postponement of multilateral development bank loans beyond those for basic human needs—remains essentially in place, as do the congressional sanctions enacted in February. These measures clearly define our dealings with the current regime in Beijing as less than normal. Reaffirming MFN shows that we know where our interests lie, and that we are on a steady course—one that recognizes the dynamics of economic and political change and the importance of long-term, relationships with the people of China that commerce can facilitate.

Solomon justified MFN renewal as “serv[ing] clear U.S. interests” and pointed to earlier sanctions as evidence that the Bush administration was not ignoring human rights interests. The compromise was, thus, MFN renewal plus not-too-costly sanctions.

Within the context of a morally charged debate, this rational calculation of U.S. interests was considered unacceptable by Congress members. When Solomon presented his argument, he was attacked by Congress:

Mr. RICHARD SOLOMON. … if we were to put additional criteria on the MFN decision, and were we to deny it for China, would we be hurting our own interests as much or more than the interests of China,

---

239 House Ways and Means Committee, United States-People’s Republic of China (PRC) Trade Relations, Including Most-Favored-Nation Trade Status for the PRC, 101st Cong., 2nd sess., 1990.
and undercutting the process of reform we want to see promoted? …

[O]ur judgment is it would be shooting ourselves in the foot as well as undermining the process of reform and openness.

Mr. SOLARZ. Mr. Secretary, this is the Congress of the United States, it is not an academic seminar. I have to tell you I think the position you just outlined is utterly unacceptable, and is politically untenable. There is a real debate around here, as you have already seen, between those who think we should immediately reject MFN and those who think that the Chinese perhaps ought to be given on last chance, and we might be able to accomplish more by maintaining MFN for another year, hoping that in that period of time, some progress can be achieved. This latter group also believes that at the end of that time, if there has been no significant improvement in human rights in China, we cannot justify its continuation.

I think you will find very few members of Congress who would be prepared to embrace the position you have just articulated, which is in effect even if there is no improvement in the human rights situation, even if perhaps the situation gets worse, and even if the repression deepens, we nevertheless should keep open the lines of commerce and communication, because in the long run, that is in our best interests.

Whatever the merits of that particular perspective, I think it finds few takers here in Congress. …

Solomon presented the consequentialist reasons that the MFN sanction would hurt U.S. interests and would not be good for the process of reform in China. But, Solarz rejected Solomon’s reasons, declaring that these reasons were “utterly unacceptable” and “politically untenable.” He stated that “this is the Congress of the United States, it is not an academic seminar,” implying that a strictly instrumentally rational approach would not do, would not satisfy Congress. Solarz acknowledged that Solomon’s calculation of long-term U.S. interests might have merit, but that it was not acceptable within the context of the Congressional MFN debate. In defense of the moral credibility of the Bush policy, Solomon pointed to the sanctions that they had already employed. He responded to Solarz’s accusations, “Our attention right now is focused

241 Ibid.
exclusively on the MFN issue, but I think we have to remember that the other sanctions that were imposed last year in effect, and so, our approach to the situation in China is not strictly MFN. This is not the sole issue of responding to the continuing repression.”

Though Solomon pointed to a number of interests, the primary interest seemed to be U.S. economic interest in China. He described the volume of trade occurring between the U.S. and China:

In the ten years since the U.S. granted MFN status to China, bilateral trade has increased almost 700 percent from $2.3 billion in 1979 to $17.8 billion last year. China is now our tenth largest trading partner worldwide and our fourth largest in Asia-after Japan, Taiwan and South Korea. U.S. exports to China totaled $5.8 billion in 1989. … As China resumes its program of economic modernization, it will become a growing and important market for a wide-range of U.S. industrial products and agricultural commodities. … Over 1,000 American companies have committed more than $4 billion to joint U.S.-Chinese projects that sell products and services in China and in overseas markets. After Hong Kong and Macau, the U.S. is the largest investor in China.

Later in the hearing Nancy Pelosi (D., California) remarked in response to Solomon’s statement:

He has made it very clear that we made an economic decision to extend MFN. And I respect that. That part of his testimony is clear … What I am concerned about is how you are trying to turn the pig’s ear into a silk purse. There is no way you can do it. If you want to say it is in our national economic and trade interests, the jobs in the U.S., to continue this, therefore, we are doing it. I can accept that. We will have to find some other way to send a message to the Chinese authorities. But, please, I hope you don’t believe some of what you said about it being an instrument for democratic reform in the country supported by the students and intellectuals in that country.

---

242 Ibid.
243 Ibid.
Bush administration officials, in addition to citing the grave economic costs to MFN revocation, also claimed that trade would actually facilitate democratic reform. The Bush administration could not ignore the moral imperative to show how their policy of “engagement” would help facilitate human rights improvements, yet when they tried to defend the renewal of MFN with a human rights justification this was poorly received by human rights activists. Pelosi argued that it was acceptable for Solomon to claim that the administration was acting in line with economic interests but unacceptable for him to claim that this was out of human rights interests. This created a dilemma for the administration: they needed to justify their decision in moral terms but when they did so human rights proponents challenged their sincerity.

Since proponents of MFN conditions were not satisfied by the economic liberalization will lead to political liberalization claims of the administration, they also tried to justify the morality of their actions by citing the sanctions that Bush had already employed. Members of the Bush administration had to continually remind Congress that they did believe in sanctions and that they had already imposed the appropriate amount of sanctions on China. During a 1990 hearing, Solomon explained:

This Administration’s response to the massacre at Beijing was swift and unequivocal. President Bush was the first major world leader to condemn the crackdown; and he promptly imposed a measured set of sanctions to demonstrate that there would be no ‘business as usual’ as long as an atmosphere of repression remained. … On June 5, a day after Tiananmen, the President ordered a suspension of all visits between military leaders of the two countries, and of government sales and commercial exports of weaponry. He also ordered an interagency review of U.S.-China relations. In addition, the President announced that he would review sympathetically all requests by Chinese students to extend their stays. Then, on June 20, the President followed those measures with additional sanctions. He ordered the suspension of high-level
governmental exchanges which promptly led to the cancellation of scheduled trips to Beijing by Commerce Secretary Mosbacher and Treasury Secretary Brady. The Administration also sought successfully to postpone consideration of all new loans to China by international financial institutions.244

Bush administration officials claimed that the U.S. was doing more than any other country, i.e. it was imposing more sanctions than any other country. Defending President Bush’s renewal of MFN in 1991 before Congress, Deputy Secretary of State Lawrence Eagleburger asserted, “[T]he United States today remains alone among western democracies in maintaining its Tiananmen sanctions against China and in refusing to restore normal relations until China makes substantial progress in addressing our human rights concerns. Without question, we have taken the strongest measures against China of any country in the world.”245 Eagleburger considered the unilateral sanctions imposed by the U.S. to be proof of the administration’s concern. These continued sanctions included withholding diplomatic meetings and military exchanges, export restrictions on military technology, ceasing support for multilateral bank loans, and suspending grants from trade and development programs.

President Bush did not fundamentally oppose sanctions, he opposed MFN as the appropriate sanction. Arnold Kanter, Undersecretary of State for Political Affairs, stated directly during a 1992 hearing in a discussion with Pease, “We have sanctions against China. We are not opposed to sanctions. We just think that the withdrawal of MFN is the wrong instrument to achieve the objectives that I think we agreed at the

244 House Foreign Affairs Committee, Most-Favored-Nation Status for the People’s Republic of China, 101st Cong., 2nd sess., 1990.
outset you and we share.” Eagleburger explained, “To borrow an analogy from the military, we should use ‘smart’ instruments targeted on specific problems, rather than an instrument of indiscriminate effect, such as MFN. … MFN is not something to be turned on and off as reward or punishment for particular behavior. It is an underlying structural component of the relationship, as much in our interest as in that of the Chinese.” On another occasion Eagleburger argued that MFN was not the “ideal vehicle with which to express [U.S.] disapproval” because “we have available to us a host of other mechanisms, tools, sanctions, under other laws, that can be used as rifle shots against specific problems that we have with the Chinese.” Eagleburger did not oppose sanctions in principle; he just called for more precise sanctions.

When suggesting “alternatives” to revoking or conditioning MFN, as an ex-official in 1993 Richard Solomon suggested other carrots and sticks rather than an alternative mechanism of influence. What unified these carrots and sticks was that they were less costly than the MFN carrot/stick. Responding to those who saw MFN as the only way to change China, Richard Solomon, a senior fellow at the RAND Corporation and former Assistant Secretary of State for East Asian and Pacific Affairs, argued, “Those who focus on MFN as our primary source of leverage on China stake our influence on one roll of the dice. Rather, we should draw on a range of legal, administrative and political remedies that are appropriate to our concerns while not putting the entire relationship at risk through the threat of a sanction that is costly to us

---

and of questionable effectiveness in encouraging change in China.”

The problem, for Solomon, was not that the U.S. was proposing a sanction, but that it was a sanction that would be “costly to [Americans] and of questionable effectiveness in encouraging change in China.” He made the point that “[h]uman rights concerns are the most difficult to deal with, for sanctions are not so apposite to abuses” and then went on to list possible alternative sanctions, including making abuses in China more visible through outlets like Voice of America and international monitoring of prisons by the Red Cross and making China’s hosting of the 2000 Olympics contingent on human rights improvements. He argued, “These sanctions have teeth; the challenge is to select the ones that will have some bite in China while not harming our interests. We should have no illusion that such measures will resolve all our problems with China in short order. … We will be most effective, however, if we remain engaged with China in a way that offers benefits for cooperation as well as sanctions for misdeeds.”

Solomon stuck with the logic of sanctions but claimed that what was needed was “to select ones that will have some bite in China while not harming our interests.” The problem is not with the logic of sanctions but with their costliness to U.S. economic and political interests.

**THE CLINTON COMPROMISE: RENEW MFN WHILE SUGGESTING LESS COSTLY STICKS**

During the 1992 presidential campaign, Clinton criticized Bush for his soft stance on China’s human rights violations and promised to be tougher with China if

---


250 Ibid.
elected. He accused Bush of “coddling” the dictators in Beijing, yet his approach to China ended up closely resembling that of Bush. While threatening to link China’s MFN renewal to human rights progress, Clinton ultimately reneged on this threat when he took office. A *New York Times* editorial written during Clinton’s first year in office assessed, “As a candidate, Bill Clinton condemned George Bush’s muted requests to China to clean up its act on human rights, arms proliferation and trade as ‘coddling’ dictators in Beijing. After 10 months as President Mr. Clinton, who meets tomorrow with China’s President, Jiang Zemin, seems to have embraced much of the Bush approach.”251 The editorial approved of Clinton’s reversal stating, “That’s not necessarily bad. The U.S. has a compelling interest in a stable, non-hostile and reform-oriented China. As Beijing emerges from the Deng Xiaoping era, U.S. bullying is unlikely to produce any constructive policy changes.”252 Other observers were more critical. A. M. Rosenthal of *The New York Times* wrote, “President Clinton talked himself into betraying his own pre-election and Presidential promises to raise China’s low-tariff privileges, the only American economic lever for human rights. The turnaround grew out of an act of political cowardice – the surrender to the greed of the American China lobby.”253

From 1993 to 1994, the Clinton administration actively threatened to revoke China’s MFN status if it did not meet certain human rights conditions. In a statement issued on May 28, 1993, Clinton announced an executive order requiring China to

252 Ibid.
meet a number of human rights conditions for the renewal of its MFN status in 1994.

He stated:

The question we face today is how best to cultivate these hopeful seeds of change in China while expressing our clear disapproval of its repressive policies. The core of this policy will be a resolute insistence upon significant progress on human rights in China. To implement this policy, I am signing today an Executive Order that will have the effect of extending Most Favored Nation status for China for 12 months. Whether I extend MFN next year, however, will depend upon whether China makes significant progress in improving its human rights record. The Order lays out particular areas I will examine, including respect for the Universal Declaration of Human Rights, and the release of citizens imprisoned for the non-violent expression of their political beliefs – including activists imprisoned in connection with Tiananmen Square. The Order includes China’s protection of Tibet’s religious and cultural heritage, and compliance with the bilateral U.S.-China agreement on prison labor.”

The executive order included 7 conditions: 1) freedom of emigration, 2) an end to prison-made exports to the U.S., and “overall significant progress” in 3) adherence to the Universal Declaration of Human Rights, 4) release of and accounting for political prisoners, 5) humane treatment of prisoners, 6) protection of Tibet’s religious and cultural heritage, and 7) permitting international radio and television broadcasts into China. In their testimonies before Congress in 1994, State Department officials continued to affirm the executive order and the requirement that China meet these human rights conditions in order for MFN to be renewed. However, in the end, Clinton decided in 1994 to once again renew China’s MFN status and to officially de-link human rights considerations from the executive’s decision on MFN despite a lack of improvements.

---

Following de-linkage in 1994, the Clinton administration had to justify the renewal of China’s MFN status every year to Congress. When testifying before Congress in 1995, Kent Widemann, Deputy Assistant Secretary of State for East Asian and Pacific Affairs, emphasized China’s growing international power. He explained:

Last year, the President decided that extending MFN for China would strengthen broad engagement between the United States and China and over the long term permit us to promote the full range of American interests with China, including our human rights, strategic, economic, and commercial concerns. We continue to believe this is the right course.

China is the most important emerging power in the world for the United States. It is a nuclear power, a fact of which we were reminded recently when they exploded yet another underground nuclear test. One out of every five people on the planet … is Chinese. China is one of the five permanent members of the United Nations Security Council. As we head into the 21st century, China is the single most important factor shaping events in Asia and, indeed, having great and increasing influence on the shape of the world of the future.256

Widemann defended de-linkage by claiming that the U.S. needed to “promote the full range of American interests with China, including our human rights, strategic, economic, and commercial concerns.” Moreover, he pointed to China’s growing power militarily and politically as a reason to extend MFN. China was simply becoming too powerful to sanction. In a 1996 hearing Winston Lord, Assistant Secretary of State for East Asian and Pacific Affairs, summarized the basis for Clinton’s decision to renew China’s MFN status:

And let me close by saying that MFN withdrawal would not accomplish many of our goals. It would not promote China’s adherence to nonproliferation standards. It would not open China’s markets and foster respect for commercial law and trade discipline. It would not help to protect the rights and freedoms of Chinese citizens or ease repression in Tibet. It would not enhance the security and stability of

Taiwan and Hong Kong, in fact just the opposite, as Governor Patten and Martin Lee made clear a couple weeks ago. On the other hand, MFN withdrawal would inflict great damage on a range of important U.S. interests. It would deny tens of thousands of jobs to American workers that would go to our competitors. It would set back the process of openness and reform in China. It would strain our relations with our Asian partners. And it would severely hamper our ability to work constructively with one of the world’s most powerful nations on the broad range of U.S. foreign policy interests.257

Like Widemann, Lord emphasized China’s power as well as the need to balance U.S. interests in his defense of Clinton’s MFN extension. In the calculations of the Clinton administration, MFN denial was too costly of a stick.

It is interesting to zoom in on the case of Winston Lord because he visibly changed his stance on the MFN issue over time. Very few participants in the debate admitted to or described a change of opinion. During the Bush administration, Lord lobbied for the attachment of human rights conditions to China’s MFN renewal as a former Ambassador to the People’s Republic of China (1985-1989). Once he joined the State Department under the Clinton administration, Lord continued to support linking China’s MFN renewal to human rights conditions. However, by 1996 he had changed his mind. When Senator John Chafee (R., Rhode Island) called Lord out on this during a 1996 hearing, Lord responded:

I think it’s very fair to read the historical record, and you’re absolutely right. I have testified at different times in history and with different experiences, with different perspectives on this. Without taking undue time here, let me say that I was never for conditioning or revoking MFN before Tiananmen Square. After Tiananmen Square, I still opposed that for a couple of years thinking, that it was a blunt instrument and hoping the Bush administration would take more forceful actions in human rights.

But with secret trips to Beijing and toasting and so on, I felt that we were giving the Chinese the wrong impression. With great reluctance, by 1992, I had evolved into a personal position, in a private capacity, not to revoke MFN, but with modest conditions to try to use it as leverage. And your quotes are very accurate on that. As we came into the administration, this was the administration’s view in the first year or two. And in fact, we did make some modest progress. The situation looked better with these modest conditions, which were not immediately invoked. We were pointing to a year later. But we did find, after a while, not only did we not have domestic support for this, but it was turning out to be a blunt instrument in practice and the administration shifted its position. 258

Lord had been part of the camp that believed that Bush had not responded forcefully enough to Tiananmen and, therefore, supported the use of MFN conditions as leverage for human rights improvements. He claimed that he changed his mind when he joined the administration and observed a lack of domestic support for and the declining effectiveness of linking MFN to human rights.

However, in 2009, when called upon to reflect on the last 20 years of U.S. human rights policy since the Tiananmen crackdown, he emphasized the need to balance U.S. interests.

He reasoned:

Supporting human rights and democracy is a salient dimension of our policy, but America’s vast and crucial agenda with China cannot be subsumed to one element. This is a painful, but prudent, calculation we apply to countries around the globe. With a Burma, or Sudan, our values can be our dominant preoccupation; with China or Saudi Arabia, we pursue a more nuanced course.

In conclusion, therefore, let us encourage China toward a more liberal society by appealing to its self-interests. Let us cooperate with China on a host of bilateral, regional, and global challenges.

---

Let us remain confident that one day the official verdict on June 4 will be overturned, that hooligans will be heroes, that black hands will be harbingers of history.\textsuperscript{259}

Lord seemed to reluctantly admit that what the decision came down to was a “painful, but prudent, calculation” that other interests took precedence over human rights interests. He explained that with less powerful countries like Burma or Sudan, the U.S. could be guided by human rights interests, but with powerful countries like China or Saudi Arabia, human rights interests had to be compromised in pursuit of economic and political interests. The main impediment to the employment of sanctions was costliness to economic and political interests, not assessments that sanctions were a poor policy option due to their ineffectiveness or harmfulness.

In her justifications for the renewal of China’s MFN status in 1997, Secretary of State Madeleine Albright emphasized U.S. security and economic interests in China as well. She explained that the U.S. needed Chinese cooperation in nonproliferation agreements, in ensuring stability in the Korean peninsula, and in U.N. Security Council efforts. She also explained that the U.S. was making progress in opening China’s markets and getting China to adhere to trade norms as well as environmental norms. Due to these security, economic, and environmental interests, she argued that it would be unwise to “take the dramatic and confrontational step of severing normal trade relations.”\textsuperscript{260} In his comparison of U.S. and Norwegian human rights actions,

\textsuperscript{259} Congressional-Executive Commission on China, \textit{The 20th Anniversary of the Tiananmen Square Protests: Examining the Significance of the 1989 Demonstrations in China and Implications for U.S. Policy}, 111\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 2009.

\textsuperscript{260} Senate Finance Committee, \textit{The Renewal of Most Favored Nation Status for China}, 105\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1997.
Egeland (1988) concludes that competing interests in the U.S. restrict its ability to promote human rights abroad. He writes:

As a general rule, the complexity of foreign-policy interests is largely proportional to the relative military and economic importance of a nation. The internal consequence of being a major power is that altruistic foreign-policy objectives are often perceived to compete with strategic and economic national interests. In other countries and situations human rights objectives will, of course, also be sacrificed to the benefit of self-interests. But the conflict of interests is apt to occur less in the foreign-policy debate of a small state (176).

Albright’s justification for the renewal of China’s MFN status reflects Egeland’s observation about conflicting interests within a major power. Due to its security and economic interests, the U.S. was ultimately not willing to impose economic sanctions on China for human rights purposes. However, this competition between interests is only relevant *when sanctions are seen as the primary tool for human rights promotion.*

Egeland’s analysis assumes that sanctions are the primary tool of human rights promotion.

Albright also justified Clinton’s policy stance on MFN through citing morally credible experts. She argued: “On human rights, [the revocation of MFN] would likely reduce U.S. influence even further. This explains support for continuing MFN from a number of groups now conducting religious outreach programs in China, and also from well-known dissidents such as Wang Xi Hu (ph), one of the heroes of Tiananmen Square.” 261 She also invoked the imagery of Hong Kong as symbolic of America’s democratic aspirations for China. She claimed:

[A]t the end of this month, I will be traveling to Hong Kong to witness its reversion to Chinese authority. My purpose will be to express

---

261 Ibid.
American support for the people of Hong Kong, and for the continuation of their democratic way of life. If Congress votes to suspend MFN, I will have no leverage, and very little credibility in conveying that message. To eliminate MFN is to say to the people of Hong Kong, we don’t care about your economy, your future or your freedom. Hong Kong’s democratic leaders are unanimous in asking us to remain engaged with China and to continue normal trade relations.  

For Americans, Hong Kong has symbolized the democratic possibilities for China, and, thus, the statements of its leaders carried moral credibility. Realizing the need to counter the moral authority behind sanctions advocacy, the Administration tried to point to people with moral authority who opposed sanctions.

What did Albright suggest as an alternative method of human rights promotion? Albright revealed in the hearing that she was not against sanctions, rather she was opposed to MFN revocation because it was too drastic. She listed the sanctions that the administration was pursuing as evidence of a more reasonable policy:

… we have available, and we use, targeted trade sanctions to achieve specific commercial objectives. We have imposed sanctions against Chinese companies that have sold chemical weapons-related materials to Iran … President Clinton has used U.S. naval power to reinforce America’s commitment to a peaceful solution of differences between Beijing and Taipei. And on human rights, we continue to document Chinese practices in our annual report. We again supported a resolution on China at the UN Commission on Human Rights. And we have repeatedly called upon China both publicly and privately to respect internationally recognized standards.

Again, the message was that sanctions were acceptable, but MFN as a sanction for human rights violations was not due to its costliness to U.S. security and economic interests. Calculations of economic and political costliness affected the type of

---

262 Ibid.
263 Ibid.
sanction but did not alter the underlying sanctions logic. Given the moral imperative to do something, Albright pointed to condemnations of China’s human rights violations in State Department reports, in the U.N. Commission on Human Rights, and in diplomatic exchanges.

When President Clinton began considering de-linking China’s MFN renewal from human rights considerations, questions arose as to what the Administration proposed to do instead. A lengthy exchange between Representative Tom Lantos (D., California) and members of the State Department reveals both the difficulty of imagining alternatives and how the only alternatives they could envision were other sanctions. In his first stab at answering Lantos’ question, John Shattuck, Assistant Secretary for Human Rights and Humanitarian Affairs, proposed pursuing a resolution against China at the U.N. Commission on Human Rights to which Lantos was not satisfied:

Mr. LANTOS. … What is to take the place of linkage, Secretary Shattuck?
Mr. SHATTUCK. … As far as the other kinds of elements of our human rights policy vis-à-vis China, or any other country for that matter, whatever the outcome may be with respect to something like MFN or any other policy instrument we may be choosing, we will be engaged across-the-board on a wide range of human rights initiatives. Vis-à-vis China, we are going to be very obviously and aggressively engaged, as we are right now on the international front, and at the United Nations. At the same time that I was in Beijing, we were pursuing the issue of a human rights resolution in the U.N. Human Rights Commission. We will be continuing, as we do in countries all over the world, to support the victims of human rights abuse in a wide variety of ways. But I think the important fact to state at this point without-
Mr. LANTOS. Your answer really does not satisfy me, if I may say so. There is currently a linkage between Most-Favored-Nation status and human rights conditions. And if the Most-Favored-Nation status is revoked, there will be a significant impact on China’s economy. …
Now, many in the business community and I presume some in the administration advocate delinkage of these two items. They do not want Most-Favored-Nation treatment to be dependent on human rights. My question is what other forms of equally effective or hopefully more effective linkage are they proposing? …

Mr. SHATTUCK. Well, Mr. Chairman. I think my answer is that we are pursuing the President’s policy on MFN aggressively at this moment.

Mr. LANTOS. As of now.

Mr. SHATTUCK. Yes. And I am also stating that whatever the outcome of this particular debate, we will be aggressively pursuing other policy instruments. I am not prepared at this point to say what a wide variety of other policy instruments might be in the event that the decision is made to—

Mr. LANTOS. Well, they are not secrets. I mean we are not dealing in the realm of high technology exports where we are revealing trade secrets. To the naked eye there do not appear to be other equally effective policy alternatives. 264

Winston Lord repeated the same alternative as Shattuck—the symbolic sanction of a resolution at the UNCHR—but admitted that it was not likely to be effective: “I think I would answer that—I mean some examples include United Nations resolutions which we are already doing, but obviously do not have a great deal of impact. …” 265 The search for alternatives was not driven by a desire to find a more effective approach to human rights promotion but to find a less costly solution.

The discussion then turned to the issue of moral credibility. Lord tried to point out that it was possible to both genuinely care about human rights and yet oppose MFN revocation as the best solution:

Mr. LORD. Well, to try to be fair—you are asking us to answer the questions of other proponents. But I think if I were to speak for them what they would say is—and I am talking about those who are genuinely sincere about human rights. And there are some sincere people in the human rights who do not agree with this policy. We have to

265 Ibid.
acknowledge that. There are also some who do not believe that human rights is that important and it is a smoke screen.

Mr. LANTOS. And there are some who would not know what human rights are if they hit them in the face.

Mr. LORD. But I do think we should acknowledge that there are many people in this country in both parties who genuinely want better human rights in China and I think MFN is too blunt an instrument. They have trouble answering your question, however. They would argue I guess that the MFN may be our strongest leverage but since it would also hurt us as well as China, it is not the right instrument. I think that would be their argument. They would say pursue everything else you can think of, but we sort of recognize it will not be quite as effective, but based on all our other interests with China, it is not worth invoking this huge instrument.

That is not my position. I am saying what the responsible critics would say. I think that is the answer.266

The fact that Lord had to remind Lantos that there were people who sincerely cared about human rights (that is, had moral credibility) and yet opposed MFN revocation strongly illustrates the degree to which this was a rarity. It shows how difficult it was for someone who claimed a human rights identity to argue against MFN linking.

Following this discussion of moral credibility, Lantos turned to Shattuck again for policy options besides MFN revocation. Shattuck proceeded to list other possible "sticks," all of which Lantos found to be too weak:

Mr. LANTOS. Do you have anything to add, Secretary Shattuck?
Mr. SHATTUCK. Well, I think, Mr. Chairman, I would just add the obvious points about other things we do in our bilateral relationship with China, relations that we have in particular targeted trade areas, relations that we have vis-à-vis particular kinds of visits and particular aspects of engagement. We could cut those back. Relations that we might have or have contemplated with respect to military joint exercises and the like, or contributions-

Mr. LANTOS. These are such trivial matters, we have to admit. We have also to admit that if we give up this instrument, there is nothing to put in its place. Now it may still be the view of the majority within the administration or within the Congress sometime in the future that we

266 Ibid, my emphasis.
should abandon this instrument. But if that happens, I think we should do so with our eyes open and not pretend that there are these wonderful other instruments more carefully crafted and equally effective. Those things do not exist.

Mr. LORD. I would certainly not quarrel with that. …

Lantos criticized the suspension of military and diplomatic exchanges that Shattuck proposed as not being as “carefully crafted” and “effective” as MFN.

Evidence of the degree to which a carrot-stick logic has been institutionalized in foreign policy for addressing human rights violations can be seen in a typology produced by the Sanctions Working Group of the State Department Advisory Committee on International Economic Policy (Table 5.1). Donnelly and Liang-Fenton (2004) remark that this document “has had considerable circulation within the State Department.” This typology essentially lists what carrots and sticks are available to the U.S. The carrots are listed under “friendly, persuasive” and the sticks are listed under “hostile, coercive,” but, in actuality, both are means to coerce a state to conform to the wishes of the U.S. government. These carrots and sticks are flip sides of the same coin (e.g., expand embassy versus reduce embassy staff, support participation in versus oppose participation in international athletic events.) According to this typology, there are five different categories of carrots and sticks: diplomatic, political, cultural, economic, and military. The choice that exists here is not whether or not to use coercion—that is a given—but, rather, what type of carrot/stick to choose. The list of possible “sticks” that Shattuck mentioned to Lantos are part of this list.

**ALTERNATIVE CARROTS AND STICKS**

---

Proponents and opponents of MFN alike suggested alternative carrots and sticks but not an alternative to carrot-stick logic. During public deliberations there was accountability to U.S. economic interests, but there was not accountability to finding a more effective means to promote human rights. During a Senate Finance Committee hearing in 1991, witnesses and policymakers discussed the issue of alternatives to revoking MFN. John Kamm, President of the American Chamber of Congress in Hong Kong, suggested the use of State Department travel advisories and the ceasing of multilateral assistance as better sticks. He proposed that the State Department rate the different provinces in China according to the egregiousness of their human rights violations and then issue travel advisories and cut off multilateral assistance to the worst areas.268 At a House Foreign Affairs hearing that same year Kamm again reaffirmed the sanctions logic, just not the MFN sanction: “I do not think there is a disagreement on goals. I think it is a question of which sanction is the appropriate sanction. What I have tried to point out is that this particular sanction disproportionally hurts a particular part of China. I am not suggesting that we abandon recourse to all sanctions.”269 He reasoned that the sanctions chosen should hurt the worst violators, not the reformers in Southern China who benefited the most from trade with the U.S. Sanctions needed to be designed to hurt the right people.

After Kamm’s suggestions of “alternatives,” Representative Max Baucus (D., Montana) followed up with a question to the other panelists, Holly Burkhalter of Human Rights Watch and Xingyu Chen, president of the Independent Federation of

268 Senate Finance Committee, China Most-Favored-Nation Status, 102nd Cong., 1st sess., 1991, p. 54.
Chinese Students and Scholars (later renamed National Council of Chinese Affairs).

Both were proponents of MFN revocation. This dialogue reveals the limitedness of thinking in terms of alternative carrots and sticks:

Senator BAUCUS. … I am wondering though—and Mr. Kamm has somewhat touched on this—in addition to using MFN as a tool, what other measures can this country appropriately take to help further human rights progress in China. …
Ms. BURKHALTER. Among the other things that can be done, in addition to MFN, would be continuing a policy at the World Bank to oppose loans to China. I believe we should do much more with our allies. …
We would like to see an end to programs such as the ones Mr. Kamm discussed about promoting economic activities in some of the most repressive areas. We would want to see the administration clamp down harder on exports, particularly high technology exports, and continue some of the sanctions that this Congress approved last year.
Senator BAUCUS. Dr. Chen, what else?
Dr. CHEN. … to improve human rights at this moment, we believe MFN is the only leverage. …
Ms. BURKHALTER. I have one more. The other leverage that I think must be looked at much more carefully is selective ban on importation of categories of items that we know to be produced by forced labor.

When asked to present other measures, the conversation quickly turned to discussing other sticks. For human rights activists, however, these alternatives were always seen as a downgrade from the MFN carrot/stick.

In the 1994 hearings, non-governmental participants had similar difficulties envisioning alternatives to MFN. Senator Charles Robb (D., Virginia) posed the question of alternatives to Professor Jeffrey Hopkins, Director of the Center of South Asian Studies at the University of Virginia, and Mike Jendrzejczyk, Washington Director of Human Rights Watch. Having been asked the same question of Lord and

---

Shattuck after their difficult exchange with Lantos, Hopkins admitted to not being able to think of an alternative:

Senator ROBB. Let me ask just one question. I think, Professor Hopkins, you just in response to this question, said that nothing would substitute for MFN in terms of the value that it would have as a bargaining point or whatever. What if-postulate without accepting the basic premise, if you will, that for whatever reason, a decision is reached to extend MFN without conditions, if you will. What other leverage might the United States bring to bear in your judgment, again, whether you agree or disagree with taking that one off the table? What possible alternatives strike you as being most effective if our intent is to place real pressure on China or other nations—but we are talking about China today—to live up to international expectations in the human rights arena?

Dr. HOPKINS. When Mr. Lord and Mr. Shattuck met with NGO’s about a month ago, they were asking us what possible other ways there were. In other words, they were having such a hard time finding any that could actually work, they were soliciting us to come up with possibilities that would be effective other than strong conditioning of MFN.

We could not come up with them either. I do not think there are credible ways, other than that.

Jendrzejczyk mentioned some alternative “sticks” that he argued would not be as powerful as MFN:

Mr. JENDRZEJCZYK. I would agree that MFN does represent the single most powerful lever. Secretary Lord said that and I totally agree. But if you put that aside, the next most important lever clearly is the World Bank. China got $3.2 billion in loans from the World Bank in fiscal year 1993, more than any other government in the world. … Aside from that, there are other diplomatic things we could do. We have another APEC meeting coming up in Jakarta in November. There are diplomatic exchanges. I think we could avoid ceremonial visits that the Chinese use for their own internal propaganda value as a way of sending a message.

We can also encourage other governments, through their Embassies in Beijing … to raise human rights cases. … Some governments are sending human rights delegations to members of their Parliament to China. The Australians have done it, and a number of Europeans. We

---

could begin doing that jointly. This has all been done very ad hoc, with very little consultation, from what we understand, among the various governments.

I think the most important thing, though, is to develop a multilateral agenda. …

So, I think there are multilateral and bilateral opportunities that are worth exploring and using—realizing none of them will equal in weight or in effect to MFN.\footnote{ibid.}

By 1996, when it became clearer that Congress did not have enough votes to overturn the presidential veto for revoking China’s MFN status Jendrzejczyk again presented other carrots and sticks as a compromise. He stated:

\[
\text{[W]e do believe there are other steps the administration can and should be taking … First, we think the United States should try to limit the flow of World Bank funds to China for non-basic human needs projects and purposes. … Second, we believe that Congress should insist on voting on China’s entry into the World Trade Organization, and we believe the President should be required to certify that certain trade and human rights conditions have been met before China can join the WTO. … Third, we hope the administration-and we understand this is actively under consideration-will propose that relations with China and Hong Kong be on the agenda for the G-7 Summit Meeting later this month in France. … We hope that the G-7 final communiqué or chairman’s statement will include strong language not only calling for human rights, but also for full compliance with the Joint Declaration on Hong Kong. Finally, Mr. Chairman, in his talks next month in Jakarta with the Chinese Foreign Minister, we hope that Secretary Christopher will make it clear that the possibility of any summit meeting between President Clinton and Jiang Zemin can only be considered if there is significant progress on human rights in China and Tibet. We are deeply concerned that in its eagerness to establish greater dialog between Washington and Beijing, the administration not trade away the substantial leverage and symbolic value of such high-level visits without receiving human rights concessions in exchange.}\footnote{House Ways and Means Committee, \textit{United States-China Trade Relations and Renewal of China's Most-Favored-Nation Status}, 104\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 1996.}
\]

All but one of these suggestions was an alternative carrot/stick—World Bank funds, WTO entry, and diplomatic meetings.
It was difficult for Americans to construct arguments for means of human rights promotion that did not involve a sanctions logic. In light of Clinton’s decision to renew China’s MFN status, which she applauded, Jessica Matthews, senior fellow at the Council for Foreign Relations and deputy to the undersecretary of State for global affairs in 1993, wrote:

None of the other levers at Washington’s disposal is very strong. They include multilateral pressure in the World Bank and the United Nations, high-level support for dissidents and for Tibet, and vigorous support for democracy in Hong Kong. But wielded with steady determination and buttressed by the inevitable weakening of centralized control that capitalism brings (especially if investors help, as they did in South Africa), such measures could accomplish at least as much as the threat of sanctions has.274

She suggested that instead of using MFN as a lever, the U.S. might try a combination of different levers instead. In a 1994 hearing, Representative Bill Thomas (R., California) used similar reasoning claiming, “But clearly, multiple carrots and multiple sticks in the hand of the President is a far better concept in dealing with this problem of wrestling with China into the 21st century than a single stick called MFN in the hands of Members of Congress.”275 The problem for Thomas was with the singularity of the MFN stick. Nicholas Kristof of The New York Times in an article entitled “More Than One Way to Squeeze China” also contemplated the use of other levers while not questioning the logic of leverage. He reasoned, “In contrast with most-favored-nation status, sometimes called the nuclear weapon of international trade, improved relations with Taiwan or the Dalai Lama are a tactical weapon, easily

275 House Ways and Means Committee, United States-China Trade Relations, 103rd Cong., 2nd sess., 1994.
calibrated step by step. This makes them a much more realistic threat.” The problem with MFN for Kristof is not the threat part, but the need for a more credible threat. The logic of needing to “press China” was retained, though the levers were varied. The carrot-stick template was also well-illustrated in an article from The New Republic:

“Also abounding was the bizarre notion that the United States has little or no leverage over China … This is nonsense. The United States buys 33 percent of China’s exports. This looks like a lot of leverage to us. There is also the matter of China’s membership in the World Trade Organization, and of the Olympics that Beijing fervently desires to host, and of the sophisticated weaponry that Taiwan wishes to acquire from America. Levers, levers, levers.”

The practice of sanctions for human rights purposes is so ingrained that when they do not work, scholars and practitioners suggest reforms rather than a rejection of the underlying carrot-stick logic. For example, Weiss (1999) is of the school of thought that sanctions should not be eliminated but rather made “smarter.” He explains, “In theory, political authorities can craft sanctions that apply pressure on wrongdoers and do not unduly and adversely affect civilian populations or weaken opposition movements. Smart sanctions thus would target better the wealthy and powerful to apply coercive pressure while sparing vulnerable populations” (503). Moreover, Weiss (1999) cannot imagine an alternative to economic sanctions other than war. He states, “The civilian consequences of economic sanctions lead some critics to favor removing such arrows from the international policy quiver. Rather than

---

a knee-jerk rejection, researchers rather should identify conditions under which sanctions may be employed morally and measures to strengthen accountability for their use. Otherwise, there is a single coercive option military force” (506).

This constrained repertoire of action is not limited to opinionmakers and policymakers, it also pervades scholarly discussions. Keck and Sikkink (1998) argue that transnational advocacy networks for human rights failed because of “a weak, repressed, and divided movement, combined with little possibility for leverage politics” (118). These conditions, they claim, are “exactly the conditions under which we would not expect successful human rights pressures” (118). According to Kent (2007), China has complied with many international organizations and agreements. Again, the exception she finds is in the area of international human rights. She provides a similar explanation to Keck and Sikkink’s reasoning that “no organizational pressures or incentives to comply have been powerful enough to overcome the disadvantages that China perceives will accrue from compliance” (Kent 2007: 218).

Translation: The U.S. and international organizations do not have levers powerful enough to coerce China. At the conclusion of a book in which Cardenas (2007) reveals the limited efficacy of international pressure to bring about human rights reform, she writes, “The fact that full human rights reform is rare, and cross-cutting pressures are prevalent, does not suggest the futility of international human rights pressure. Rather, it helps us to identify the forms of pressure that are most likely to be influential. Directly, international actors must continue to link human rights violations to the economic well-being of domestic elites, as well as to empower domestic opponents of
an abusive regime” (135).\textsuperscript{278} While it might seem, therefore, that sanctions persist simply because they are institutionalized, we will see in the next chapter that it was possible to think of alternatives \textit{in a morally depolarized setting}. Yes, sanctions are quite institutionalized, but that is not the end of the story.

**SPONSORING UNCHR RESOLUTIONS**

Despite the push for harsher economic sanctions by human rights advocates, the mainstay of U.S. human rights promotion efforts toward China has been symbolic sanctions. U.S. economic and political interests in China have consistently constrained the enactment of costlier economic sanctions. Thus, human rights advocates have had to press for symbolic sanctions instead. Both during and after the MFN debates, policymakers and the public continued to search for other carrots/sticks with which to entice/force China to improve its human rights conditions. Members of Congress, human rights organizations, and the media contested China’s bid to host the Olympics in both 2000 and 2008 and diplomatic meetings and presidential visits between China and the U.S. These symbolic sanctions, they argued, would shame Chinese leaders into improving human rights conditions. The U.S. was also the primary sponsor of resolutions against China in the United Nations Commission for Human Rights (UNCHR), another form of symbolic punishment. They sponsored a resolution against China nearly every year from 1989 to 2006, when the UNCHR was replaced by the Human Rights Council (HRC). There was not a U.S. representative on the Council

\textsuperscript{278} On a seemingly contradictory note, she later states, “Although it pays to increase the material costs attached to noncompliance, more costly international human rights pressure is not necessarily better for inducing a substantial reduction in the overall level of violations” (135).
until 2009. Policymakers did not select symbolic sanctions for their effectiveness, but, instead, in response to moral pressure.

**SHAMING THROUGH UNCHR RESOLUTIONS**

The U.S. sponsored a resolution against China in the U.N. Commission on Human Rights (UNCHR) nearly every year that it was a member of the UNCHR. The U.S. was a continuous member of the UNCHR from 1990 to 2005 aside from a one-year absence in 2002 when it did not receive the necessary votes. It sponsored a resolution for each year it was a member, with the exception of four years—1991, 1998, 2003, and 2005. In 1991, observers speculated that the Bush Administration did not pursue a resolution because they needed China’s support for a Persian Gulf war resolution. In 1998, President Clinton justified dropping the annual resolution due to “improvements” in human rights. Those “improvements” included “the release of several prominent political prisoners” and an “announcement by China that it would sign the International Covenant on Civil and Political Rights.” An Administration official called the covenant “a ‘far better mechanism’ to force changes in China than the sight of another United Nations resolution going down to defeat in Geneva.”

However, these covenants would eventually suffer from the same enforcement problems as the UN Declaration. Another senior Administration official remarked of the decision not to sponsor a resolution against China in 1998, “It’s certainly not a reward. It is being done as a calculation. It is being done because we believe it is the

---

281 Ibid.
way to make progress in the future.”

This administration official felt compelled to reaffirm his/her rational decision-making. This “progress” was short-lived, and the following year, the U.S. yet again sponsored a resolution against China. A senior official explained, “Having chronicled the facts and the deterioration … we had no choice but to go ahead with the resolution as part of our strategy of engagement on human rights.”

It is strange that the official calls the tactic of shaming China at the UN “part of our strategy of engagement.”

The George W. Bush administration justified its decisions to not pursue UNCHR resolutions against China in 2003 and 2005 by citing human rights improvements or promises of improvements from China. The decision in 2003 was said to rest on China’s pledges “to allow the International Committee of the Red Cross to open an office in Beijing, to declare that minors are entitled to religious instruction and to discuss parole reviews for political prisoners jailed under outdated laws,” pledges which were later broken.

In a letter urging Bush to pursue a resolution in 2004, CECC Commissioners Jim Leach and Chuck Hagel wrote, “In 2003, the Administration did not sponsor a China resolution at the UNHRC, because China had made several unconditional commitments in December 2002 bilateral talks to accept visits by the U.N. Special Rapporteurs on Torture and Religious Intolerance, the U.N. Working Group on Arbitrary Detention, and the U.S. Commission on International

---

282 Ibid.
Religious Freedom.”\textsuperscript{285} The 2005 decision not to sponsor a resolution was also supposedly based on concessions from China. CNN reported that the State Department decided not to pursue a resolution “[c]iting ‘important and significant steps’ by China to improve its human rights record,” including “allowing political prisoners the same rights to sentence reductions and parole as other prisoners.”\textsuperscript{286}

When the conditioning of MFN was continually vetoed by both Presidents Bush and Clinton, human rights activists inside and outside of government turned to UNCHR resolutions as the next best stick. Wachman (2001) explains that “the UN Commission on Human Rights and its Sub-Committee on Prevention of Discrimination and Protection of Minorities issues resolutions to ‘call international attention to any state’s domestic human rights abuses and submit that state to a process of ‘reintegrative shaming’’” (261). For some, this option represented a better stick because it had multilateral backing. Yet, like material sanctions for human rights purposes, scholars have found that shaming through UN resolutions has been ineffective. Franklin (2008) finds that public criticism from intergovernmental organizations have the weakest effect on political repression. So, how were these ineffective tools justified?

**NEAR UNIVERSAL SUPPORT FOR UNCHR RESOLUTIONS**

U.N. resolutions were assumed to work in the same way as MFN—punishing China to change China. In a letter to the editor, Mickey Spiegel, a consultant to Human Rights Watch, declared that “if public criticism of China’s human rights

practices disappears, so will any incentive for the Chinese government to liberalize.” According to Spiegal, China’s fear of criticism would spur liberalization. Using the familiar metaphor of leverage, Mike Jendrezeczyk, Washington director of Human Rights Watch Asia, claimed, “If the President visits China without clear human rights preconditions and also drops any resolution at the United Nations Human Rights Commission in Geneva, what leverage will the United States use to press for concrete progress?” Preconditions on a presidential visit and a UN resolution were supposed to bring about “concrete progress.”

Aside from actors from Human Rights Watch, another claimsmaker who argued for the effectiveness of shaming in improving human rights was Merle Goldman, a professor of history at Boston University and American delegate to the United Nations Commission on Human Rights in 1993. Speaking of the continued failure of proposed resolutions to gain the necessary votes in Geneva, Goldman claimed, “Despite these regular defeats, debates within the United Nations human rights commission have been far more effective than Congressional denunciations or criticism by human rights and other groups in moving China toward compliance with international norms.” His assertion runs counter to the evidence that Franklin (2008) has found in regards to Latin America that IGO criticisms are the least effective. What type of evidence did Goldman cite to prove the effectiveness of UN resolutions? Goldman cited China’s signing of the United Nations Covenant on Economic, Social, and Cultural Rights and its signing of the United Nations Covenant on Civil and

---

Political Rights in response to threats of a critical resolution as evidence. Though many celebrate China’s signing of these human rights covenants, studies show that many countries sign but do not comply with these covenants. In the end he concludes, “These universal norms may not always temper the actions of China’s leaders, but they encourage and inspire those in China who seek to gain political and religious rights and fight against their government’s abuse of human rights.”

Other proponents of shaming China through UN resolutions saw it more as a vehicle for expressing their disdain toward China’s human rights violations. Senator Paul Wellstone (D., Minnesota) argued, “Even if the resolution is not adopted, simply having a debate on human rights in China (and the related issue of human rights in Tibet) will make a difference. It is essential for the Administration to make clear that at this moment in history the United States stands with the courageous Chinese who are struggling to achieve the rights they deserve.”

Though he claimed that the debate incited by a resolution “will make a difference,” Wellstone seemed to favor a resolution for the more expressive purpose of “[standing] with the courageous Chinese who are struggling to achieve the rights they deserve.” Despite the fact that a resolution might be ineffective, the author of a Washington Post editorial argued that President Clinton “can still send a message that America supports, or at least sympathizes with, the fighters for freedom in side China; alternatively he can send a message that his friendship with their oppressors is too important to put at risk with any impolite words.”

290 Ibid.
Some argued that to not pursue a resolution would signal approval for China’s poor human rights record. The author of an editorial in *The Washington Post* claimed, “If the world’s democracies cannot even agree on a mildly worded condemnation, they are sending the Chinese a signal of abject acquiescence.” U.S. Ambassador to the UNCHR Geraldine Ferraro similarly argued that not taking action against China “would send ‘the wrong signal to the Chinese Government and to those courageous people who have risked their lives and freedom to improve human rights conditions in China.’” The author of a *New York Times* editorial remarked that “American silence on the issue … would be unconscionable.” The metaphor used is telling: a “signal.” Contrast these with the leverage, tool, and instrument metaphors used to describe economic sanctions. Yet, Perlez reported that Administration officials were wary of these emotional tendencies: “Administration officials have argued in recent weeks that a resolution against China may make members of Congress feel good but does not necessarily reap results.” Once again we see an attempt to keep affectual actions out of the policymaking mix.

At the same time, members of the administration often cited their pursuit of U.N. resolutions against China as proof that they were *doing something* in the face of Congressional criticism. When Clinton decided to de-link MFN renewal from human rights considerations, Kent Wiedemann, Deputy Assistant Secretary of State for East

---

Asian and Pacific Affairs, discussed U.N. resolutions as part of their alternative methods for promoting human rights. He claimed:

Multilaterally, we have also continued our efforts to work for improvements in the human rights situation in China. We joined with the European Union and a number of other countries to introduce and pass a China resolution at the U.N. Human Rights Commission in Geneva. In spite of intense Chinese lobbying, we and the cosponsors were able to defeat China’s procedural motion to block that resolution. For the first time in 5 years of trying, the resolution came to the floor. Although it was defeated by only a single vote, the resolution sent a strong signal that China’s human rights practices are of global, not just bilateral concern.  

Jendrzejczyk of Human Rights Watch viewed Clinton’s pursuit of a resolution against China in the UNCHR as an attempt to restore his moral credibility. In a 1995 *New York Times* article, Patrick Tyler wrote, “Mike Jendrzejczyk, the Washington director of Human Rights Watch, said Mr. Clinton’s credibility on human rights ‘is virtually nil.’ ‘I think they are using this resolution in an attempt to restore credibility to a virtually dead human rights policy,’ Mr. Jendrzejczyk said.” Note that the way to restore credibility is through sanctions! An administration official admitted to *The New York Times* that this was part of the motivation behind its pursuit of a UNCHR resolution:

Administration officials insisted today that their decision to go ahead with the resolution condemning China was driven chiefly by China’s crackdown on dissidents. But, speaking on condition of anonymity, they readily acknowledged that it was also linked to the increasing hostility toward China on Capitol Hill, where questions of its rights record and fitness to join the trade organization seem inseparable.

---


Some in Congress have threatened to block China’s entry. By sponsoring the resolution condemning China, the White House hopes to argue that it is using the Geneva forum to try to punish the Chinese – without punishing American exporters or others doing business with Beijing.

‘There’s a sense that the President has to show Congress he can get tough,’ one Administration official said, ‘without sinking the whole relationship.’

Thus, it is not true that Congress has no say in foreign policy and that Congressional deliberations are simply cheap talk. The executive had to justify its actions to Congress. The hostility on the Hill did make a difference in that it pushed the executive to find a cheaper sanction rather than to get rid of sanctions altogether in its human rights policy toward China.

In 2000, when the Clinton administration was pushing for the establishment of PNTR for China and needed the support of Congress to do so, they tried to demonstrate their commitment to human rights by pursuing a UNCHR resolution. In a Washington Post op-ed, Robert Kagan, senior associate at the Carnegie Endowment for International Peace, made this connection:

Some may find the juxtaposition of the two announcements a bit odd. The Clinton administration inaugurates a big push to grant China the biggest prize in the history of U.S.-Chinese economic relations and, in the next breath, singles China out for special condemnation as a world-class violator of human rights. But there was nothing coincidental about last week’s announcements. The administration’s tougher public stance on China’s human rights abuses is an essential component of its ‘all-out’ campaign to win congressional approval for the trade deal.

When the Clinton administration needed something to appease human rights activists in Congress, they chose another stick, not another method of international influence.

---


Kagan observed that in order for Congress to grant PNTR, “[the administration] has to ‘address members’ concerns.’ And if this means annoying the Chinese with a public dressing down in Geneva, so be it.” The executive had to win Congressional approval to grant China PNTR status, and the way it chose to do this was through supporting a UNCHR resolution.

Whether or not a President chose to pursue a UNCHR resolution came to publicly symbolize their degree of commitment to human rights. A *New York Times* editorial in 1999 framed Clinton’s decision as to whether or not to sponsor a UNCHR resolution as a test of its commitment to human rights. It stated, “Washington can act more forcefully on human rights by sponsoring a new United Nations resolution on Chinese abuses in Geneva later this month. Last year, for the first time since 1991, the United States did not support a resolution condemning China before the U.N. human rights commission in Geneva. The Administration hoped that this gesture would encourage Beijing to ease political repression. American silence on the issue this year would be unconscionable.” When George W. Bush entered office in 2001, journalists and members of Congress also framed it as a test of his commitment to human rights in China. *New York Times* journalist Jane Perlez described the UNCHR decision as an indicator of his concern for human rights. She wrote:

> Although the American effort in recent years to organize international criticism of China’s rights abuses has been a major irritant in relations with Beijing, Secretary of State Colin K. Powell was preparing a recommendation for the White House to move ahead, the officials said.

---

301 Ibid.
By deciding not to change course, the Bush administration will be sending a signal that at least in the early going, its relations with Beijing will depend on issues besides trade and security. At home, the administration will be satisfying the demands of a Congressional coalition that includes Senators Jesse Helms, the conservative Republican of North Carolina, and Paul Wellstone, the liberal Democrat of Minnesota. Many saw the decision on the China resolution as *an early test of the administration’s commitment to human rights*.303

On February 26, 2001, Tom Lantos introduced a resolution (H.RES.56) “strongly supporting the decision of the United States Government to offer and solicit cosponsorship for a resolution at the 57th Session of the United Nations Human Rights Commission in Geneva, Switzerland, calling upon the People’s Republic of China to end its human rights abuses in China and Tibet, and for other purposes.” On April 3, 2001 it passed in the House by a 406-6 vote.

**RARE OPPOSITION TO U.S. SPONSORSHIP OF UNCHR RESOLUTIONS**

Although there seemed to be near-universal support for the U.S. sponsorship of UNCHR resolutions against China for its human rights abuses, there were a few dissenters to this action. Departing from the reasoning of the human rights activists at Human Rights Watch, John Kamm of the Dui Hua Foundation expressed concern that U.N. resolutions were not the best way to improve human rights in China. He stated, “I’m asking someone to explain to me how a resolution that will almost certainly fail and will not be supported by our allies can help the human rights situation in China. … I think the Chinese government will portray a failed resolution as a validation of their

---

human rights policies.”

Kamm’s main line of work was to secure the releases of political prisoners in China. Thus, his main qualm regarding the resolution was how it would affect this endeavor. He claimed, “By sponsoring a resolution we greatly reduce the chance of a renewed bilateral human rights dialogue in which we could have handed over a comprehensive list of political and religious prisoners.”

Like the signing of human rights covenants, the release of prisoner lists did not necessarily guarantee an improvement in human rights, yet these concessions were satisfactory to some human rights advocates.

In addition to human rights activist Kamm, the only other vocal opponent to U.N. resolutions in the analyzed discourse was former human rights official Catharin Dalpino. Dalpino was Deputy Assistant Secretary of State for Democracy, Human Rights, and Labor from 1993 to 1997. In a Washington Post op-ed in 1997, she asserted that two misconceptions propelled the UN resolutions: “that it is within the U.S. reach to get such a resolution passed and that doing so would advance the cause of human rights in China.”

She insisted that “[c]ensure [in the form of a resolution] would drive Beijing farther from participation in an international human rights regime.” Instead, she advocated that the U.S. redirect its efforts towards encouraging China to sign the Covenant on Civil and Political Rights. She concluded her op-ed with a caveat that “[i]n China, as elsewhere in the world, the international community cannot direct, much less dictate, such change, but it can encourage it. To

---

305 Ibid.
307 Ibid.
do even that requires a hard assessment of the available instruments and the ability and willingness to separate policy from posture.”\(^{308}\)

Dalpino’s op-ed drew criticism from both fellow government official John Shattuck and Jendrzejczyk of Human Rights Watch who both wrote responses to her op-ed in *The Washington Post*. As Assistant Secretary for Democracy, Human Rights, and Labor, Shattuck felt the need to clarify in a letter to the editor that Dalpino’s view “[did] not represent the position of the administration in which she served.”\(^{309}\) He continued, “Our policy is clear: The Human Rights Commission is an appropriate forum for considering human rights problems anywhere in the world, including China, and our ultimate decision on whether or not to support a China resolution will, as with any resolution, be based on the human rights situation at the time the commission meets.”\(^{310}\) Jendrzejczyk claimed that the limited progress China was making in the human rights front was a result of the threat of UNCHR resolutions. As evidence of improvements due to the threat of a UNCHR resolution, he states, “Beijing has … invited a U.N. special rapporteur on religious intolerance and a U.N. working group on arbitrary detention to visit China and Tibet. It has issued a series of ‘white papers’ on human rights and in October signed the U.N. Convention on Economic, Social, and Cultural Rights, which it has yet to ratify.” None of these steps indicated concrete improvement on human rights in China, yet they did indicate a Beijing’s willingness to make some symbolic concessions. Jendrzejczyk argued, “The best hope for pushing China to take more steps … lies in accelerating the multilateral effort in Geneva. …

\(^{308}\) Ibid.


\(^{310}\) Ibid.
The administration should also stick with Geneva as a matter of principle. If China escapes scrutiny for its human rights record because of its economic clout, the credibility of the United Nations will be seriously damaged."\(^{311}\)

Despite this exchange between Dalpino, Jendrzejczyk, and Shattuck, overall the sponsorship of a UN resolution spurred much less debate than the proposals for economic sanctions. There was not an organized contingent of opponents, just the voices of a few individuals. The primary reason why the sponsorship of UNCHR resolutions was less controversial than conditioning MFN renewal was the decreased collateral damage to U.S. economic interests. No one made the argument that they would be more effective or more humane than the MFN sanction. No one justified support for a UNCHR resolution by citing its multilateral rather than unilateral nature, rather more common was the argument that the U.S. needed to sponsor a resolution since other countries were not willing to. Even though observers noted that European countries decided against sponsoring UNCHR resolutions because they feared economic retaliation from China in the form of lost trade contracts, there was no strong economic lobby in the U.S. against sponsorship of UNCHR resolutions. To businesses in the U.S., the relative cost of UNCHR resolutions was low compared to the alternative of MFN revocation.

The main opposition voiced in U.S. newspapers against the U.S. sponsorship of UNCHR resolutions against China was that of Chinese government officials. Chinese officials responded angrily to attempts to sponsor UNCHR resolutions against

China. After the failure to bring the resolution to the table in 1997, *The New York Times* reported the response of Chinese delegate to the UNCHR Wu Jianmin to the attempt:

> Wu Jianmin, China’s delegate, termed the vote ‘a victory for cooperation over confrontation.’ Earlier, in a speech to an audience packed in the wood-paneled United Nations meeting room, Mr. Wu labeled the resolution ‘an outrageous distortion of China’s reality’ and said it reflected Western attempts to ‘dominate China’s fate.’ He said the Chinese people ‘had no human rights to speak of’ before the Communists came to power in 1949, and he dismissed the resolution criticizing China’s rights record and its treatment of Tibet as Western ‘impudence.’ He said China had followed its own course for 5,000 years and would continue to do so.  

In 1999, Chinese officials had a similar reaction to the U.S. decision to sponsor a resolution against China. *The Washington Post* reported, “Yu Shuning, a spokesman for the Chinese Embassy in Washington, immediately denounced the administrations announcement. ‘This is what we call seeking confrontation, and seeking confrontation will lead to nowhere,’ Yu said. ‘We think the differences between the two countries on human rights should be dealt with through dialogue on the basis of equality and mutual respect, not through seeking confrontation.’” The only person to speak of equality and mutual respect was a Chinese representative. No Americans ever spoke of equality and mutual respect. In 2000, when the U.S. was considering sponsoring a UNCHR resolution against China, *The New York Times* reported China’s response: “A Foreign Ministry spokesman, Zhu Bangzao, demanded today that Washington ‘immediately correct its wrong decision.’ ‘The U.S. is in no position to point its finger

---

at other countries over human rights,’ Mr. Zhu said in remarks carried by the state-run New China News Agency. He said the United States would be grossly interfering in China’s internal affairs by offering a resolution criticizing China at the commission …”314 After the 2000 resolution failed to receive enough votes, Qiao Zonghuai, a senior Chinese official, called the failure “an anti-China political farce directed by the United States alone.”315 In 2001, the U.S. lost its seat on the UNCHR for the first time since the Commission was established in 1947. China was one of the countries that campaigned against the U.S. seat on the Commission. Following the vote Wang Yingfan, China’s U.N. ambassador, stated, “We prefer to have dialogue. The Untied States does not. … They want to have confrontation. I hope this is the last one we have in Geneva.”316

DON’T BE LIKE THE OTHERS: PRINCIPLE VS. PROFIT PART 2

Up until the mid-1990s, other liberal nations, including Canada, Australia, Brazil, and E.U. countries were also active in sponsoring UNCHR resolutions against China. They ceased sponsoring resolutions in what appeared to be an exchange for “dialogue” with China. Thus, continued attempts by the U.S. to sponsor resolutions in the late 1990s and early 2000s were quite anomalous among its liberal democratic peers. American observers interpreted other countries’ refusals to co-sponsor UNCHR resolutions against China as selling out to China for economic benefits. When the E.U. decided not sponsor a resolution in 1996, William Schulz, Executive Director of

Amnesty International USA, urged the U.S. not to follow the same path. He stated, “To abandon the effort would be to signal further to China that the United States has joined the European Union and caved in to the lure of trade contracts.”

Like the MFN decision, human rights activists and the media framed the decision whether to sponsor a UNCHR resolution against China as a matter of principle versus profit. In a Washington Post editorial entitled “Trade Advantage vs. Principle,” the writer explained:

Far from delivering the concessions the Clinton administration hoped would result from its conciliatory approach, China now is threatening Denmark for refusing to roll over, as its larger European neighbors did, on the question of Chinese repression of dissidents. The scene of this unseemly spectacle is a U.N. commission meeting in Geneva, where a pro-human rights coalition is rapidly coming apart as other nations, notably France, join the United States in putting trade advantage over principle.

In a strategy that mirrored U.S. attempts to tie MFN renewal to human rights conditions, the writer described how China was threatening economic costs for those nations that sponsored a resolution against it in the UNCHR: “Last week they warned that relations with Denmark would be ‘severely damaged in the political or economic and trade areas.’ In case that was too subtle, China added that the human rights resolution would ‘become the rock that smashes on the Danish government’s head.’” The full remark from China’s Foreign Ministry spokesman Shen Guofeng to Denmark read, “This anti-China resolution will, I think, in the end become a rock that smashes on the Danish government’s head. Denmark, the bird that pokes out its head,

319 Ibid.
will suffer the most.”\footnote{Mufson, Steven, “China Warns U.S. on Human Rights Resolution; Beijing Pressure Appears to Have Killed Measure Condemning Its Record on Freedoms,” \textit{The Washington Post}, April 11, 1997.} On the contrary, Shen praised Australia’s decision to abstain from supporting a resolution against China as “sensible,” offering a formal bilateral dialogue in exchange for not supporting the Danish sponsorship.\footnote{Ibid.}

As co-sponsor of a Senate resolution asking the Administration to condemn China at the UNCHR in 1999, Senator Paul Wellstone (D., Minnesota) kept with this principle versus profit framing, “What’s the hesitation of following up on this strong report with a strong condemnation – unless commercial interests trump all other interests in this Administration.”\footnote{Becker, Elizabeth, “In a Stiff Rebuke, U.S. Accuses China of Abusing Rights,” \textit{The New York Times}, February 27, 1999.} Even members of Congress who supported MFN renewal without human rights conditions criticized the Administration for not sponsoring a UNCHR resolution in 1998. The Administration claimed that they decided to not sponsor a resolution since China had agreed to sign two human rights covenants. During a 1999 hearing, Representative Doug Bereuter (R., Nebraska) who opposed the use of the MFN sanction, urged Administration to sponsor a UNCHR resolution, “Secretary Koh, with respect to the U.N. Human Rights Commission and our lack of willingness to raise the resolution last year on China, I think you should know that was a very serious error. It did not stand for American principle. … We need to rebuild that effort. … An explosion will occur on the Hill if you make a contrary decision this year.”\footnote{House International Relations Committee, \textit{Human Rights in China}, 106\textsuperscript{th} Cong., 1\textsuperscript{st} sess., 1999.}

In 1997, France was the first European country to declare that it would not co-sponsor a resolution against China, a move human rights activists and journalists
heavily attacked as selling out for commercial benefits. Human Rights in China, a human rights group comprised of Chinese exiles in the U.S., criticized the French decision, stating, “France used to be a banner of human rights and democracy in the world. Now for billions of dollars of orders, it has betrayed French tradition and history.”

Observers linked the French decision to an Airbus deal with China. Given all of the negative publicity that resulted from this action, Bernard Valero of the French Embassy felt the need to explain the French decision in a letter to the editor in The Washington Post. Valero justified the French decision by claiming that the UNCHR resolution had been ineffective and that dialogue would be a better approach:

France, along with some of its European partners, decided this year to put an end to the hypocritical and unproductive approach of supporting a text that had yielded no results after seven years, and whose sole effect was to assuage consciences while enabling all parties to continue trading with China. Instead France embarked on a path of constructive dialogue with China. …

It is the wish of France and China that the dialogue between China and the European Union on human rights should develop in a constructive manner on the basis of equality and mutual respect, and should permit the development of exchanges and cooperation for the reinforcement of the rule of law. It is by giving greater depth to mutual understanding and reciprocal trust that divergences will be reduced. …

As for France’s economic relations with China, President Chirac’s concern is with strengthening the position of France, the world’s fourth-largest economic power, in China. Today, with 1.7 percent of the Chinese market, France ranks only 17th among China’s foreign suppliers. The French president has done nothing more than follow the example of numerous countries, and France’s Airbus sale to China represents no more of a reward than, for example does its sale of hundreds of Airbus planes to the United States.

Valero’s statement invoked the disgust of European reader, Mei-Chin Chen. She wrote in a response to Valero:

---

324 Ibid.
Being a European of Asian descent, I got a bad taste in my mouth when I read the letter by French press officer, Bernard Valero, about France’s positioning on human rights in China. … In fact, French President Jacques Chirac broke European solidarity on the issue of introducing the human rights resolution in the U.N. Commission on Human Rights. It was only the courage of small nations such as Denmark and the Netherlands that allowed the resolution to be introduced and to continue pressure on China to respect internationally accepted human rights.326

Chen’s letter reflects the symbolic connection of sponsoring a resolution with caring about human rights. She did not accept Valero’s statement that their decision not to co-sponsor was a moral decision and not a commercial one.

When EU countries once again decided to forego sponsoring a resolution against China in the UNCHR in 1998, Wei Jingsheng also wrote an impassioned op-ed in The Washington Post condemning this decision. One of the claims that the E.U. countries made was that China had demonstrated some human rights improvement, including the release of political prisoner Wei. Wei proclaimed:

At a meeting last month, the foreign ministers of the European Union adopted a resolution that will do great harm to the cause of advancing human rights in China. Based on distorted facts, this resolution shirked the European Union’s obligation to condemn abuses in China and all but gave up the pursuit of human rights, democracy and peace in the world.

The resolution’s basis for concluding that China’s human rights situation has improved was the ‘release of Wei Jingsheng.’ But was I released? The whole world now knows that I was forced into exile in the United States in the name of medical parole. Yet according to a public statement of the Chinese minister of justice, I am still a prisoner. That is to say that the government’s illegal sentence against me remains valid.327

He argued that the E.U. was sending the message to the Chinese government and people “that the Communist human rights standard is entirely acceptable and that China’s atrocities against human rights no longer need to be condemned.”

CONCLUSION

The force that was powerful enough to counter the moral weight and deliberative push behind MFN revocation was U.S. economic interest. It was not arguments that sanctions would be ineffective or hurt the wrong people that prevented the implementation of the MFN sanction against China for its human rights violations. Rather, it was concern that the MFN sanction would be too economically and politically costly to the U.S. Sanctions are only sustainable in a context of extreme international inequality. When countries become more economically integrated, sanctions are no longer a possible “solution” to human rights violations. Leaders will only pursue policy options that come at little cost, thus, reflecting realpolitik and rational choice theories to an extent.

Yet, the foreclosure of the MFN sanction due to its potential economic costliness was not enough to undermine the sanctions logic, the idea that the U.S. could somehow coerce human rights improvements in China. Opponents to the MFN sanction, rather than suggesting alternative means of influence, suggested alternative sanctions. They suggested less costly sanctions, “smarter” sanctions, targeted sanctions, and “rifle shots” rather than nukes. Moral support for sanctions combined with the economic costliness of the MFN sanction meant that the search turned to cheaper sanctions rather than to a different means of influence.

\[328^{328}\] Ibid.
The chief manifestation of this moral and economic compromise was U.S. sponsorship of UNCHR resolutions against China, for this had the moral meaning attached to sanctions but lacked the costliness. This choice also revealed that effectiveness was not the guiding principle in the formulation of U.S. human rights policy toward China. Resolutions against China in the UNCHR failed year after year because the U.S.-sponsored resolutions could never gain enough votes to even be discussed in the UNCHR forum. It was clear that this was not going to lead to any deep changes in China’s human rights situation. Rather, this was the compromise reached as a result of the competing authorities of morality and money.

What would it take to bring new alternatives to the policymaking table? How would the U.S. find its way out of the sanctions mindset? In the next chapter, we will see that the environment required for discussing alternatives to sanctions was a depolarized policy discussion.
**TABLE 5.1: U.S. FOREIGN POLICY TOOLS: AN ILLUSTRATIVE MATRIX OF SELECTED OPTIONS**

<table>
<thead>
<tr>
<th>Friendly, Persuasive</th>
<th>Hostile, Coercive</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Diplomatic</strong> (Executive)</td>
<td><strong>Diplomatic</strong> (Executive)</td>
</tr>
<tr>
<td>• Embassy: Open/Expand</td>
<td>• Embassy: Reduce Staff/Close</td>
</tr>
<tr>
<td>• Ambassador: Accredit</td>
<td>• Ambassador: Recall for Consultations/Withdraw</td>
</tr>
<tr>
<td>• Visas: Liberalize</td>
<td>• Visas: Restrict to Targeted Group/Suspend</td>
</tr>
<tr>
<td>• Landing Rights: Extend/Expand</td>
<td>• Landing Rights: Restrict</td>
</tr>
<tr>
<td>• Intl Orgs: Support Membership/Position</td>
<td>• Binational Commissions: Pare Back/Suspend</td>
</tr>
<tr>
<td>• Intl Confs: Support Sponsorship/Participation</td>
<td>• Intl Orgs: Oppose Membership, Participation/Urge Exclusion</td>
</tr>
<tr>
<td>• Communiqué: Friendly</td>
<td>• Intl Confs: Oppose Sponsorship, Participation/Urge Exclusion</td>
</tr>
<tr>
<td>• State Visits: Support</td>
<td>• Communiqué: Hostile</td>
</tr>
<tr>
<td>• Senior Officials Exchange: Support</td>
<td>• State Visit: Oppose/Cancel</td>
</tr>
<tr>
<td>• Hostile Neighbors/Opposition: Minimize Contact</td>
<td>• Senior Officials Exchange: Restrict/Cancel</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th><strong>Political</strong> (Executive and Legislative)</th>
<th><strong>Political</strong> (Executive and Legislative)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>LEGISLATIVE</strong></td>
<td><strong>LEGISLATIVE</strong></td>
</tr>
<tr>
<td>• Resolutions: Friendly</td>
<td>• Resolutions: Hostile</td>
</tr>
<tr>
<td>• CODELS: Increase</td>
<td>• CODELS: Fact-Finding Missions</td>
</tr>
<tr>
<td>• NBD: Increase Funding</td>
<td>• NBD: Restrict Funding</td>
</tr>
<tr>
<td>• Intl Parliamentary Orgs: Support Partic./Position</td>
<td>• Intl Parliamentary Orgs: Oppose</td>
</tr>
<tr>
<td>• Opposition: Minimize Contacts</td>
<td>• Opposition: Increase Contacts</td>
</tr>
<tr>
<td>• Arms Transactions: Support</td>
<td>• Arms: Cancel Trans./Boycott</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>EXECUTIVE</th>
<th>EXECUTIVE</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Proclamation: Friendly</td>
<td>• Proclamation: Hostile</td>
</tr>
<tr>
<td>• State/Local Exchanges: Sister City Agreements</td>
<td>• Opposition: Host Visit</td>
</tr>
<tr>
<td>• State Offices, Overseas: Support</td>
<td></td>
</tr>
<tr>
<td>Cultural (Executive and Legislative)</td>
<td>Economic (Executive and Legislative)</td>
</tr>
<tr>
<td>------------------------------------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>• Aggressive Broadcasts: Decrease/Suspend</td>
<td>• Aggressive Broadcasts: Increase</td>
</tr>
<tr>
<td>• Academic Exchange: Establish/Expand</td>
<td>• Academic Exchange: Restrict/Suspend</td>
</tr>
<tr>
<td>• Intl Athletic Events: Support Participation/Sponsorship</td>
<td>• Intl Athletic Events: Oppose Participation, Sponsorship/Urge Exclusion</td>
</tr>
<tr>
<td>• Entertainment/Cultural Tours: Support Participation/Sponsorship</td>
<td>• Entertainment/Cultural Tours: Oppose Partic., Sponsorship/Ban from US/Urge Exclusion</td>
</tr>
<tr>
<td>• Peace Corps: Expand</td>
<td>• Peace Corps: Restrict/Suspend</td>
</tr>
<tr>
<td>• Public Exchange: Establish/Expand</td>
<td>• Publication Exchange: Restrict/Suspend</td>
</tr>
<tr>
<td>• Intl Cultural Orgs: Support Membership</td>
<td>• Intl Cultural Orgs: Oppose Membership/Urge Suspension</td>
</tr>
<tr>
<td>• Scientific Cooperation: Establish/Expand</td>
<td>• Scientific Cooperation: Restrict/Suspend</td>
</tr>
<tr>
<td>• Internet Sites: Expand</td>
<td>• Debt: Tighten Terms/Suspend</td>
</tr>
<tr>
<td></td>
<td>• Investment: Restrict Promotion/Ban</td>
</tr>
<tr>
<td></td>
<td>• Business Contacts: Discourage</td>
</tr>
<tr>
<td></td>
<td>• Trade Missions: Pare/Suspend</td>
</tr>
<tr>
<td></td>
<td>• OPIC/EXIM/TDA: Restrict on Targeted Basis/Suspend</td>
</tr>
<tr>
<td></td>
<td>• Trade Controls: Limited/Expand (commodity/product-based)</td>
</tr>
<tr>
<td></td>
<td>• IFIs: Oppose Membership, Participation/Urge Exclusion</td>
</tr>
<tr>
<td></td>
<td>• Financial Controls: Increase</td>
</tr>
<tr>
<td></td>
<td>• Aid/Technical Assistance: Restrict/Suspend</td>
</tr>
<tr>
<td></td>
<td>• Preferential Tariff Treatment: Suspend</td>
</tr>
<tr>
<td></td>
<td>• IFIs: Support Membership, Position</td>
</tr>
<tr>
<td></td>
<td>• Financial Controls: Relax</td>
</tr>
</tbody>
</table>

TABLE 5.1: U.S. FOREIGN POLICY TOOLS: AN ILLUSTRATIVE MATRIX OF SELECTED OPTIONS, CONTINUED
### TABLE 5.1: U.S. FOREIGN POLICY TOOLS: AN ILLUSTRATIVE MATRIX OF SELECTED OPTIONS, CONTINUED

| Economic (Executive and Legislative), continued | • Assets: Release  
• Postal Cooperation: Expand  
• Aid/Technical Assistance: Increase | • Regional Trade Agreements: Suspend Participation  
• Trade Credits: Restrict  
• Trade Embargo  
• Double Tax Agreement: Suspend  
• Assets: Freeze  
• Postal Cooperation: Suspend  
• G7 Sanctions Group: Activate |
|-----------------------------------------------|-------------------------------|-----------------------------------------------|
| Military (Executive; Legislative Consultation) | • Training (IMET/E-IMET): Increase  
• Officer Exchange: Increase  
• Military Cooperation (joint exercises/training/technical cooperation): Increase  
• Port Visits: Increase  
• Confidence-Building Measures: Increase  
• Peacekeeping Forces: Maintain  
• Coop. w/Hostile Neighbors/Opposition: Restrict  
• Local Maneuvers: Restrict | • Training: Restrict/Suspend  
• Officer Exchange: Restrict/Suspend  
• Military Cooperation: Restrict/Suspend  
• Confidence-Building Measures: Restrict/Suspend  
• Port Visits: Suspend  
• Peacekeeping: Withdraw  
• Cooperation w/Neighbors/Opposition: Increase  
• Local Maneuvers: Increase  
• Show of Force  
• Act of War |

Source: Sanctions Working Group, State Department Advisory Committee on International Economic Policy CODELS = congressional delegation; EXIM = Export-Import Bank; IFI = International Financial Institutions; IMET = International Military Education and Training Program; OPIC = Overseas Investment Corporation; TDA = Trade and Development Agency  
CHAPTER 6
A NEW CONVERSATION:
DEPOLARIZATION AND NEW METHODS OF HUMAN RIGHTS PROMOTION

We have to jump out from the traditional way of thinking, which is only giving the Chinese Government pressure. But now the question is, the Chinese people are standing up. How can we better assist the people to act on their own behalf rather than make this huge country depend too much on international pressure on the Chinese Government?
In other words, we should really put more trust on the Chinese people’s power, which is the Chinese Government that cares more about them, cares more about them than the international pressure.

-- Han Dongfang, Congressional-Executive Commission on China Hearing (2003)

Polarization has often suffocated intelligent, informed, open discussion – I’ll strike informed and intelligent – open discussion.

-- Representative Sander Levin, House Ways and Means Committee Hearing (2000)

It was not until the discussion of U.S. human rights policy toward China moved to a new social setting, a morally depolarized setting, that new methods of human rights promotion could be discussed and pursued. When the context was no longer polarized, absolutist reasoning no longer made sense and assessments of moral credibility were no longer relevant. A depolarized forum for the discussion of U.S. human rights policy was not the inevitable outcome of establishing permanent normal trade relations (PNTR) with China and taking MFN off the table as a possible sanction. Rather, it came about through the deliberate and intentional actions of policymakers who recognized that polarized debates were unproductive. To continue the human rights conversation when the MFN debate ceased, Representatives Sander Levin (D., Michigan) and Doug Bereuter (R., Nebraska) crafted the Congressional-Executive Commission on China (CECC) as a new forum for hearings on human rights policy toward China.
It was in the context of this depolarized environment that policymakers turned to a new method of promoting human rights in China—cultivating internal forces of change. Rather than discussing the best form of external pressure by which to coerce human rights changes in China, in the CECC forum, participants discussed how the U.S. could support the development of an internal infrastructure for the rule of law and the development of a Chinese civil society that could promote respect for human rights in China. Sanctions were no longer seen as the only option as they were in the context of the MFN debates. The only reason why calls for external pressure persisted in the policy discussions was due to the participation of human rights activists oriented toward the release of political prisoners. Yet, these calls for external pressure found less traction than they did in the context of a morally polarized debate in which sanctions were viewed as the only moral option and as the option that had the endorsement of morally credible actors. When these dynamics were absent, conversation shifted toward how the U.S. could practically help empower Chinese civil society, an option which was not even considered in the MFN era, an option that was geared toward systemic change rather than diplomatic concessions.

Three changes accompanied the change of venue to a more “profane” deliberative setting. First, in the CECC forum we witness a different set of actors participating in the policy discussion. Businesses moved out while lawyers moved in. Congressional human rights “warriors” were absent. Internal Chinese dissidents rather than exiled Chinese dissidents were now providing the grassroots input on “what the Chinese people wanted.” The effect of this was that assessments of who people were and whether or not they had the right to speak about human rights in China were no
longer central to the discussions. Second, the aim of deliberation changed. The aim of the CECC deliberations was not to decide on whether or not to issue sanctions for China’s human rights violations but rather to discuss human rights problems in China and explore possible means of U.S. influence. Third, along with a depolarized policy discussion also came a privatization of the policy discussion. While the media continued to publish articles on human rights problems in China (though at a slower rate), articles on U.S. human rights policy toward China declined significantly. The CECC and their rule of law emphasis did not make the news. These three side effects of the “profaning” of the policy forum made it possible to collectively think outside the sanctions box, to discuss alternative means of human rights promotion.

THE ESTABLISHMENT OF THE CECC

With the establishment of PNTR with China also came the opportunity to move the debate over U.S. human rights policy toward China into a depolarized setting. In order to garner the Congressional votes needed to pass the PNTR legislation, Representatives Sander Levin (D., Michigan) and Doug Bereuter (R., Nebraska) proposed that the PNTR legislation also include the establishment of a body called the Congressional-Executive Commission on China (CECC). According to the CECC website, “Congress created the Congressional Executive Commission on China (CECC) in 2000 to monitor China’s compliance with international human rights standards, to encourage the development of the rule of law in the PRC, and to establish and maintain a list of victims of human rights abuses in China.” To fulfill this mandate, the Commission publishes an annual report on human rights in China and

---

329 Levin had initially supported MFN revocation while Bereuter had consistently opposed it.
gathers information on this report through formal hearings, informal roundtables, and staff research trips to China. The Commission is comprised of nine Senators, nine members of the House of Representatives, and five senior Administration officials. The CECC website explains that it was created to win the votes of those who “were willing to support the PNTR bill, but did not want to relinquish the annual debate over human rights in China.” Newspaper accounts of the establishment of the CECC also pointed to the same rationale. Joseph Kahn wrote in *The New York Times*, “Legislation to create the commission is seen as essential to rounding up support for the trade bill among the large number of undecided lawmakers in both parties, many of whom say they are wary of sacrificing their annual review of China’s trade status unless they create a new forum to monitor human rights.”

Those who opposed the creation of the CECC worried that it would have no enforcement capacities and that it would narrow the pool of Congressional participants in the debate. Representative Dick Gephardt (D., Missouri) tried to introduce an alternative body that would have the power to mandate sanctions, but it was opposed by the Clinton administration. Representative Christopher Cox (R., California) tried to introduce a Jackson-Vanik 2 bill that would not only continue the format of the annual MFN debates but expand them to take place twice a year. Rather than the consequence of MFN revocation, if Congress found China to be non-compliant in the area of human rights, the Jackson-Vanik 2 bill would allow for non-trade sanctions.

---

like the withholding of foreign aid. However, neither of these bills gained
Congressional nor executive support. Cox also asserted that a problem with the Levin-
Bereuter proposal was that it would exclude significant players in the human rights
policy debate:

But keep in mind that if we repeal the existing Jackson-Vanik annual
review, if we repeal the presidential reports to Congress and the
opportunities for Congress to debate this, that our strongest voices in
the Congress, targeted on human rights abuse in the PRC would be
silent. Mr. Smith would have no more opportunity; Ms. Pelosi would
have no more opportunity; Chairman Gilman, you would have no more
opportunity; Mr. Gejdenson, you would have no more opportunity to
speak on these things unless you were one of the tiny handful of people
that might be appointed to this commission. But the whole U.S. Senate
and the whole House of Representatives would be on the bench, and I
don’t think that’s a good idea.333

Representative Frank Wolf (R., Virginia), though he was on the Commission in 2002,
complained that there were not enough representatives of the “losing” side of MFN on
the Commission: “But hire somebody that maybe was not for MFN [Most-Favored-
Nation], somebody who was not for all these things. I lost. My side lost.”334 He later
equated those who had lost to those who “[had] a commitment and a passion to human
rights and religious freedom.”335

With the adoption of the Levin-Bereuter proposal, the composition of the
participants did change in the way that Cox predicted. The prominent players in the
MFN debates were no longer prominent in the CECC forum. Gilman left Congress in
2003 and Gejdenson left Congress in 2001 making it impossible for them to
participate in the CECC hearings. But other “human rights warriors” who remained in

334 Congressional-Executive Commission on China, Human Rights in China in the Context of the Rule
of Law, 107th Cong., 2nd sess., 2002.
335 Ibid.
office, like Smith, Pelosi, Wolf, and Lantos, either minimally participated or did not participate at all in the CECC hearings since they did not consistently hold seats on the Commission. Pelosi only appeared in one hearing in 2002, Smith only appeared in one hearing in 2008 and one in 2009, Wolf only appeared in one hearing in 2002, and Lantos did not appear at all in the CECC hearings. While shifting the discussion to the CECC forum did narrow access, it also had the effect of equalizing influence. When Congressional “human rights warriors” were present in the deliberations, other voices lost influence. However, when they were absent, there was a more equal playing field for all voices to be heard.

Also absent during the CECC hearings were non-governmental sanctions backers including Human Rights Watch which only appeared in one hearing in 2002 and one hearing in 2008, the AFL-CIO which only appeared in one hearing in 2002, and human rights activist Harry Wu who was completely absent in the CECC hearings. The polarizing figures had left the discussion. Not only was there a thinning of the coalition that supported sanctions, there was also a thinning of the main coalition that opposed sanctions—the business community. The U.S.-China Business Council, a mainstay of the MFN debates, only appeared in one CECC hearing in 2002. The U.S. Chamber of Commerce also only appeared in one CECC hearing in 2002. All the businesses that had testified during the MFN hearings were completely absent during the CECC hearings. Both “sides” had disappeared. It is difficult to determine if these figures created the polarized debate or if the polarized debate drew them in, however, we do see that in their absence the dynamics of discussions over U.S. human rights policy toward China changed.
THE EFFECTS OF DEPOLARIZATION

A POCKET OF PRODUCTIVE DELIBERATION IN THE MFN ERA

During the MFN era, it was rare to find someone who 1) had moral credibility, 2) realized the ineffectiveness of sanctions for human rights improvements, and 3) offered a constructive alternative. In 1997, Representative John Edward Porter (R., Illinois) embodied this anomalous combination. In his testimony at a House Ways and Committee hearing on MFN renewal, he first established his moral credibility. He stated:

I come to this point having spent the last 16 years working on human rights issues all across the world as founder and cochairman of the Congressional Human Rights Caucus. More recently, I’ve worked the last 12 years or so on the issues involving the transference of Hong Kong to Chinese sovereignty as cochairman of the Hong Kong Caucus. I also worked very closely with Doug Bereuter on the Hong Kong Relations Act and Hong Kong Reversion Act, and sponsored legislation to protect Hong Kong journalists. So, Mr. Chairman, I care very, very deeply about the people of China and about the people of Hong Kong, and there is no question in my mind that-I know that Frank Wolf and others will state this even more forcefully—but there is no question in my mind that China is one of the world’s most egregious human rights abusers.\(^\text{336}\)

He acknowledged that there were people, like Frank Wolf, who might have been more identifiable as a human rights advocate, yet affirmed that he cared very deeply about human rights and believed that China was “one of the world’s most egregious human rights abusers.” During this hearing, Wolf affirmed Porter’s credibility by stating in his testimony that immediately followed Porter’s, “At the outset, let me just stipulate

there are good people on both sides of this issue, and I want to stipulate that out front.”

Porter also represented someone who had changed sides. He had initially voted in favor of MFN revocation for China. In explaining why he shifted his support, he cited the ineffectiveness of MFN as a tool of human rights promotion, the inevitability of presidential veto, and the negative consequences for American businesses and Hong Kong. Porter was not alone in his recognition that MFN was a lost cause. By 1997, Congresspeople on both sides of the MFN divide realized that the executive would never allow MFN to be revoked. Porter embraced the economic liberalization to political liberalization belief that “if you establish economic freedom, then inevitably political freedom will follow.” However, he also spoke of the need to establish a human rights policy beyond continued trade. He stated, “I believe we need a whole new policy regarding China. I believe the Clinton administration doesn’t have one, except to say that we shouldn’t cut off MFN and we should be engaged. I think that is fine as far as it goes, but, very frankly, I think we need a whole new policy in China, and we need something that the Congress can focus on to provide that policy.”

Porter presented a list of ideas for a more constructive human rights policy toward China. He prefaced this list by explaining that these ideas had come from a separate discussion, outside of the MFN forum: “Most recently, a number of us have gotten together to sit down and propose not an alternative to MFN-some people may see it that way-but a set of policies that we can adopt into law and have the

337 Ibid.
338 Ibid.
339 Ibid.
administration follow that have a real chance of moving Chinese society toward those values that we believe in deeply.”

Here we see the rare combination of someone who 1) had moral credibility, 2) realized the ineffectiveness of sanctions for human rights improvements, and 3) offered a constructive alternative. Yet, we also see how he arrived at policy alternatives in the context of a morally depolarized discussion, outside of the MFN hearings. Porter described this alternative human rights policy package:

The two center points of this resolution will be a much stronger commitment by the United States to VOA, Voice of America, and RFA, Radio Free Asia, broadcasts to China. … It would involve a greater commitment to the National Endowment of Democracy working through nongovernmental, NGO’s, to impact Chinese society, and it would contain, Mr. Chairman, a number of other initiatives involve a voluntary code of conduct for American businesses doing business in China, exchanges of legislators, exchanges of students, expanded human rights reporting, a registry to identify people who are political prisoners, the denial of visas to known human rights abusers, and many, many other initiatives. I believe these are things that can really help to change Chinese society.

Porter also came from the branch of Congress that was less polarized to begin with and which had shown less support for MFN revocation—the Senate.

In his written testimony, Porter explained his change of course in greater detail. He admitted that the reason why he supported MFN denial initially was a result of frustration and not based on a calculation of the “best course of action”: “Over the years, I have voted to disapprove MFN for China, not because this was the best course of action available to us, but out of a deep and growing frustration with both China’s human rights situation and our inability to bring about positive change in this area.

---

340 Ibid.
341 Ibid.
My frustration has intensified in recent years, in the face of chaotic and poorly managed policy shifts by the Clinton Administration.” He also acknowledged that there was an institutional setup in the U.S. government that made it seem like trade was one of the only ways for Congress to influence foreign policy: “As Members of Congress, we have extremely limited tools with which we can impact our nation’s foreign policy. Because Congress does have jurisdiction over trade, Members who share my frustrations have naturally turned to the annual MFN renewal process to push for more attention from U.S. and Chinese leaders to our legitimate and deeply-felt concerns.” Thus, his support for MFN revocation emerged from what appears to have been absolutist reasoning and the fact that MFN was an institutionally-convenient tool. However, Porter also explained that unlike others he had also begun to search for a more “proactive China policy legislation.” In the midst of the MFN debates, this type of action had been suppressed. He explained, “I am not alone in this search for a smarter, more productive and more nuanced Congressional debate on China, but for the past few years such efforts have lacked support from those in a position to make changes happen.” Porter seemed to be referring to the changing position of people with moral credibility in Congress. He also pointed to the polarized MFN debate as problematic for productive discussion:

This year there may be a shift in fortunes, however, and I hope those of us who care about the people of China and their future can take advantage of this opportunity to move U.S.-China policy beyond the high-volume MFN debate toward something more productive for all concerned. For this reason, Congressman David Dreier and I brought together a group of colleagues who share a strong commitment to

---

342 Ibid, my emphasis.
343 Ibid.
344 Ibid.
human rights, but have divergent views on MFN. We asked this informal group of Members to come up with positive and forward-looking proposals which could form, the basis of a legislative effort to define America’s policy towards China. What we got back was interesting, creative and hopeful ideas on moving China towards democracy and accepted standards of behavior, mixed with caution about the dangerous potential of a China which is acting out at home and abroad.345

It was not until Porter and others brought together a group of people who were truly concerned about human rights in China in a depolarized setting that they were able to formulate “interesting, creative, and hopeful ideas on moving China towards democracy and accepted standards of behavior.” He observed that the pursuit of constructive solutions could not occur in “the high-volume MFN debate.” The morally-charged MFN forum was not conducive to productive and creative discussion. It was only in a setting deliberatively removed from the charge of the MFN forum that members were able “to come up with forward-looking proposals.” Moreover, in this depolarized setting described by Porter, all the participants in the discussion possessed equal credibility.

**PRODUCTIVE DELIBERATION IN THE CECC FORUM**

Once the debate entered the depolarized CECC forum, productive deliberation moved from an isolated incident to a more consistent phenomenon. Some debate participants recognized how unproductive the MFN policy debate was. In 2000, Robert Matsui (D., California), a consistent presence throughout the MFN debates, remarked:

One concern I have, however – the opponents of PNTR, besides opposing PNTR, have not come up with a positive strategy on how we

---

345 Ibid, my emphasis.
change China’s behavior and – you know, outside of perhaps declaring war on China. And so perhaps somebody can give me a help and a hand as to what approach we should be taking. … [B]y being negative, how does that actually change China’s behavior and how does that make China a better country in terms of part of the international community? It’s easy to say no; it’s another thing to come up with a positive strategy on how we change behavior.346

A polarized context was not a conducive context to the construction of a positive strategy; a depolarized context proved to be more conducive. In a 2000 hearing, Sander Levin similarly remarked, “Polarization has often suffocated intelligent, informed, open discussion – I’ll strike informed and intelligent – open discussion.”347 The depolarized nature of the CECC was deliberate and did not just come about automatically with the establishment of PNTR with China. The chief architect behind the CECC was Sander Levin, and he stated during one of the first hearings of the CECC in 2002, “I think we wanted to become a forum, not for automatically choosing up sides, but trying to be an effective instrumentality.”348

In large part, Levin’s desire for the CECC forum to be depolarized and more instrumentally oriented was realized. There was not the “automatically choosing up [of] sides” that had characterized the MFN debates such that those with moral credibility wanted sanctions and those that lacked moral credibility did not. When there was no longer an either-or decision on the table, there was no longer fodder for a dichotomous framing of the debate. Rather than a stage for enacting the correct moral line or proving one’s morality, the hearings became a place of collective information-

gathering and brainstorming about possible means to promote human rights in China. In the context of the CECC, there was a surveying of possible policy options. This is a stark contrast to the assertions during the MFN debates that sanctions were the only possible option. Support for sanctions hinged on the social setting in which they were being debated. By 2002, thirteen years had also passed since the Tiananmen Massacre. The focusing event that had provided the fuel for the MFN flames was by this time not as fresh.

The creation of a new type of social setting for the discussion of U.S. human rights policy toward China did not happen spontaneously because the possibility of revoking MFN was foreclosed, rather, it resulted from the very deliberate actions of some of the Commissioners of the CECC. In other words, a change in the power dynamics between the U.S. and China took away the possibility of using the MFN sanction against China, but this alone did not propel a search for new alternatives. This required the agency of those who designed and directed the CECC. Thus, it is possible to design and direct deliberative democratic forums in such a way that they become more productive even within the existing institutional design of U.S. democracy. The chair and co-chair of the commission directed the hearings toward a search for systemic solutions. Upon opening the first hearing of the CECC, chairman Max Baucus reiterated that the mandate of the commission was to encourage systemic change in China. He stated:

[T]here cannot be sustained protection of human rights without the rule of law. Many Members of Congress, as well as recent administrations, have been active in securing the release or reduction of sentences for individual prisoners of conscience in China. I expect that to continue, as it should.
However, this Commission will look at human rights within the context of the rule of law in China. We may address individual cases, but only when there is likely to be a broader, systemic, and structural impact in China. Following Baucus’ statement, co-chairman Doug Bereuter also reiterated that the goal of the Commission’s deliberation was to examine ways to promote systemic changes in China: “The Commission’s mandate reflects continuing concerns in both Houses of Congress and among members of both political parties, not only about the individual instances of human rights abuses in China, but also about the need for encouraging systemic changes in China to end such practices.” Participants in the CECC hearings embraced the mandate of the commission to focus on systemic problems in China rather than individual cases. Such discussions of the need for systemic change in order to bring about human rights improvements in China were extremely rare during the MFN debates.

A NEW APPROACH: CULTIVATING INTERNAL FORCES

RULE OF LAW AND CAPACITY BUILDING PROGRAMS

The specific type of systemic change that became the focus of the CECC hearings was the establishment of rule of law in China. Participants argued that if China did not have the rule of law, human rights would never be protected. Where did this shift toward a focus on rule of law emerge from? It was an idea that originated within the Clinton administration but did not receive Congressional backing and attention until the establishment of the CECC.

---

350 Ibid.
The mind behind the “rule of law” idea was Paul Gewirtz, a professor at Yale Law School. Gewirtz (2003) recalled:

I am a career law professor at Yale Law School, but I took a leave of absence from 1997 to 1998 to work at the U.S. Department of State in Washington, D.C. For some time, I had peddled an idea in various venues that U.S. foreign policy should focus more on legal reform in other countries. My argument was that, if other countries’ legal systems could be improved, a range of U.S. foreign policy interests could be advanced: Legal reform could support economic development in other countries, legal reform could advance human rights, legal reform could improve the ability to combat global crime, and so forth. Therefore, I argued, U.S. diplomacy and U.S. foreign assistance should focus more intensively on legal reform than it had, and diplomacy and foreign assistance should be more closely synchronized. The idea was hardly original with me, but it was timely for a variety of reasons. Reasonably senior people in the State Department and the White House thought it made sense, and a post at the State Department was created for me in 1997 to try to strengthen the Department’s efforts along the lines I had been suggesting (603).

Gewirtz (2003) noted that the first mention of the “rule of law” as part of U.S. human rights promotion efforts was in 1994 in a speech by President Clinton, however, there was little concrete action that occurred at that time (604). Stephenson (2000) points to Congress as the main obstacle to the administration’s rule of law efforts: “Influential members of Congress believe that the U.S. should not engage in any cooperative programs with the current Chinese government, and they successfully blocked funding for most of the initiatives the Administration proposed” (71). Thus, Congressional action does impact foreign policy. In this case, it foreclosed the earlier implementation of the alternative strategy of programs to empower the Chinese populace to fight for human rights. Through his tenacity at pushing the rule of law idea and the ability to gain the attention of some senior officials, Gewirtz was able to get a rule of law
initiative on the 1997 Clinton-Jiang Summit agreement. Gewirtz (2003) described his efforts:

[W]hat I lacked in diplomatic experience, I made up for in tenaciousness. … I worked every angle I could to keep the Initiative on the minds of those with overall responsibility for the Summit; I relentlessly pushed them to promote the Initiative with the Chinese and with others in the U.S. government; I made sure that I was included in key State Department or White House meetings both to be visible and to have the opportunity to advance the Initiative; I sought to be included in key U.S.-China meetings, even without any speaking role, so that my visibility would remind my U.S. colleagues to push the Initiative and so that the Chinese would not doubt that I was a player; I pushed the Chinese to make decisions; I pushed my point of view in writing, over the telephone, and in person with everyone; and if I was met with temporizing or less than complete success, I kept pushing (608).

With Gewirtz’s persistence, a segment on “Cooperation in the Field of Law” became part of the Joint Statement from the Summit. It read:

The United States and China agree that promoting cooperation in the field of law serves the interests and needs of both countries. … … Recognizing the importance of the United States and China each attaches to legal exchanges, they intend to establish a joint liaison group to pursue cooperative activities in this area. These may include exchanges of legal experts; training of judges and lawyers; strengthening legal information systems and the exchange of legal materials; sharing ideas about legal assistance; consulting on administrative procedures; and strengthening commercial law and arbitration (608-609).

At the 1998 Clinton-Jiang Summit, the Rule of Law Initiative was further fleshed out to include specific projects:

a symposium on the legal protection of human rights; a conference of U.S. and Chinese law deans to explore expanded cooperation on legal education; a cooperative project on administrative law; judicial exchanges and judicial training seminars; cooperative efforts on legal aid for the poor, beginning with a symposium in Beijing; a program to translate American law books into Chinese; a commitment by the American Bar Association to undertake a program of legal cooperation
with its Chinese counterparts; a program to train arbitrators; and 
exchanges on securities regulation, electronic commerce, and corporate 
law (613).

Journalists were receptive to this rule of law idea. In March 1997, Thomas 
Friedman of *The New York Times* published a series of three op-ed articles endorsing 
the rule of law idea. In the first article he recognized the problem of the morally 
polarized MFN debates. He observed:

The death of Deng Xiaoping has triggered a new round of debate on 
U.S.-China policy. But it’s a debate that remains highly unsatisfying. 
As always, the moralists make a passionate case for ratcheting up 
pressure on China, but they have no strategy. And the strategists make 
a sobering case for why continued engagement with China is a U.S. 
interest, but they have no morality. *It’s time to extract ourselves from 
this choice.*

But first, how did we get here? It started in June 1989. Shocked by the 
televised murder of prodemocracy demonstrators in Tiananmen, the 
human rights community and Congress looked for a club to punish 
China’s leaders. They opted for threatening to withdraw China’s most-
favored-nation trade benefits if China didn’t release jailed dissidents or 
give the Red Cross more access to them. M.F.N. was the wrong club. Threatening to withdraw M.F.N. hurt U.S. 
business as much as China. So China found it easy to go to U.S. 
corporations and ask: ‘Are you ready to sacrifice your interests so a few 
troublemakers are released from jail?’ Since the answer was a loud 
‘No,’ the Chinese easily divided and paralyzed the U.S. into two rival 
camps. Worse, *the human rights debate got reduced to M.F.N. or no 
M.F.N.* This also suited China, because once it got the Administration 
to set aside the M.F.N. club, China had clear sailing. *Human rights 
activists had no other means for influencing China and became 
irrelevant.*

But while human rights and business groups were screaming at each 
other, they both lost sight of developments in China. Many Chinese 
reformers started reacting negatively to the U.S. human rights debate 
because it was so focused on a few dissidents that it ignored those 
Chinese who were working within the system – bureaucrats, lawyers, 
factory managers – to advance the rule of law, something the Chinese 
Government, for its own reasons, also had an interest in doing.\(^\text{351}\)

\(^{351}\)Friedman, Thomas L., “Foreign Affairs; Rethinking China, Part I,” *The New York Times*, March 3, 
1997, my emphasis.
Friedman suggested that U.S. efforts be directed to the establishment of rule of law in China. He claimed, “No question – freeing dissidents is a necessary condition for human rights progress in China, but it’s not sufficient. The only sustainable improvement in human rights in China will come when the system begins to change and the most promising way for the U.S. to promote such change is by building on China’s own self-interest to have more rule of law.” Friedman was only able to make this suggestion when he realized the morally polarized nature of the MFN debate and step outside of it, like Senator John Edward Porter.

In Friedman’s next op-ed he proposed a transcript of what Secretary of State Madeleine Albright should say to Jiang Zemin upon the occasion of their next meeting. He wrote:

Albright: We usually come to these meetings with a list of dissidents you’ve imprisoned. If we’re lucky you toss us a bone, let someone out of jail and we pretend human rights in China have improved. We tell the U.S. press, ‘We bluntly raised our human rights concerns, but we have other interests and can’t hold the U.S.-China relationship hostage to human rights alone. And blah, blah.’ Let’s stop this sham. You know that neither our allies nor our own business community will allow us to impose the sort of biting economic sanctions on you that would really get your attention. We could only muster such sanctions in times of war, and we’re not in a war. But we have other tools. We have our own spotlight and we have the pressures building up inside your own country to move toward a more law-based society, and we intend to use both. We’re going to use our spotlight to highlight those areas where you’ve progressed in implementing rule of law instead of arbitrary Communist party rule, and to highlight those areas where you’ve not. That is going to be the thrust of our human rights policy from now on – rule of law. Get used to it. Rule of law. We’re no longer going to treat human rights as simply winning the freedom of some dissident, or as an isolated issue that my State Department human rights office deals with and no one else. No, no. The President has directed the State Department, Pentagon, Commerce, Trade Representative and every other U.S. agency dealing with China to formulate all policies vis-à-vis China
with the long-term objective of encouraging you to replace arbitrary, unaccountable, opaque operations with rule-of-law procedures. …

The emphasis was on rule of law rather than the release of political dissidents. On June 10, 1997, Albright wrote her own op-ed in *The Washington Post*, concluding that what united the range of U.S. interests in China was promotion of the rule of law:

Domestically, we should not let the differences voiced in the current debate obscure the agreement on long-term goals. Whether our particular interest in China is diplomatic, security, commercial or humanitarian, our overriding objective is to encourage in China full respect for the rule of law. If you are a business person, you will care whether China’s legal structure respects individual rights, and whether the political environment is stable. If you are a military planner, you will want to see China moving ahead with reform because you know that an open society contributes to peace. If you are a human rights activist, you will welcome the long-term liberalizing effects of expanded commerce, a strong private sector and a broad dialogue between China and the world’s democracies.

In a Congressional hearing on the same day that Albright’s op-ed appeared, Senator Bob Graham (D., Florida) asked Albright to elaborate on her statement in *The Washington Post* on promoting rule of law in China by discussing the specific tools the U.S. could use to influence China to strengthen the rule of law. Albright replied:

I believe that actually there is a close connection between having normal trade relations with China and also encouraging the rule of law, because what we’re finding is that there is legislation or patterns of conduct that are necessary in carrying on trade relations that encourage the rule of law … Also, there are a number of other tools that we have, specifically in the human rights area, where we raise the issues that concern us in a number of – for the United Nations, also bilateral relationships, and where we are pressing the Chinese to become a part of the international rule of law, by signing on to the human rights covenants.

---

We also are, in fact, looking at ways to increase the amount of freedom of expression by – we are looking at a possibility of funding additionally for Radio Free Asia. That would allow us to talk with them more about the importance, or with the people, about the importance of the rule of law – and in fact, thinking also about funding, specifically some work that would enable us to work with the Chinese on expanding the rule of law specifically.\textsuperscript{354}

Unlike the MFN sanction though, the Rule of Law Initiative was not the source of much fanfare and, for the most part, escaped public attention. In a 1998 \textit{New York Times} article, Anthony Lewis observed, “One of the agreements reached on President Clinton’s China visit was to move ahead quickly on what he and President Jiang Zemin called the rule of law initiative. It drew little attention, but it has the potential to be an engine of change in China.”\textsuperscript{355}

The biggest roadblock to the Rule of Law Initiative was again Congress. Gewirtz (2003) described what happened to the Rule of Law Initiative upon his departure from the State Department in 1998:

> Significant further progress on the Initiative was difficult in the subsequent period, even though many people of great ability took over my portfolio, \textit{largely because Congress refused to provide funding assistance for work to advance the rule of law in China.} \textit{Funding became caught up in the complex and often harsh Congressional politics concerning China.} More precisely, Congress refused to lift existing legislative prohibitions on the use of Foreign Assistance Act money for China, and Congress failed to appropriate any funds specifically earmarked for legal cooperation with China, so the U.S. government had only very small pockets of money to do things. Although significant preparatory work for follow-up activities was done at the State Department, no coordinated legal reform strategy or program could emerge without money to back it up (614-615).

In the context of a morally polarized debate over MFN, funding for rule of law programs was out of the question since Congress was fighting to maintain existing

\textsuperscript{354} Senate Finance Committee, \textit{China MFN Status}, 105\textsuperscript{th} Cong., 1\textsuperscript{st} sess., June 10, 1997.
sanctions which included those prohibitions on the use of Foreign Assistance Act money. Thus, while Congress could not stop the president from renewing MFN, it could stop the president from pursuing alternatives.

It was not until the Congressional discussion of U.S. human rights policy toward China moved to the depolarized setting of the CECC that there was Congressional backing for rule of law programs. Under the aegis of the CECC, the administration and Congress were finally in agreement on U.S. human rights policy toward China—a focus on rule of law. This continued into the George W. Bush administration. In the early years of the CECC, witnesses called for more federal funding for technical assistance and capacity building programs. They argued that the U.S. government was doing much less in this area than other countries, particularly European countries. American Chamber of Commerce representative Murck described this paucity of American funds:

The European Union has been active in this field for almost a decade. Their funding is at the level of approximately $10 million a year. They are the largest single player in this area. The second largest is Germany, acting individually. The GTZ, the German Technical Assistance agency, has trained MOFTEC’s lawyers in trade law and WTO compliance so that it should be no surprise to anybody that MOFTEC takes a rather European view of the recent United States action on steel tariffs. The next largest player would be Canada. The Ford Foundation has been active. After that, it drops way down in terms of dollars to a couple of small, but effective programs like Asia Foundation, which has a program of grants. There is a new program launched by the U.S.-China Business Council which is funded by grants and by assistance from many corporations which has been active. The U.S. Government, however, until last year, was a very strong spokesman, but actually did very, very little in this area.  

\[356\] Ibid, my emphasis.
In 2002, Nancy Yuan, director of the Asia Foundation, also pointed to the lack of a U.S. presence when it came to technical assistance programs:

On the whole, the community of people who work in the law development field are, frankly, not American. The larger amount of resources and activities are conducted by the Europeans. The European Union has a very large program of training with the Supreme People’s Court, it’s probably about $15 million dollars a year. The Germans have a very large program of legal assistance, both in technical assistance as well as judicial training. The Canadians, the British, the Swedes, the Danes, the Irish, just about everybody else has fairly significant programs with resources behind it.357

Yuan described how this created a long-term presence of on-the-ground European involvement compared to the American approach of criticizing China while providing no assistance:

For Americans who, particularly those in government, who come and go—if you go on a study trip and there’s a lot of celebration and I don’t even know what you want to call it—surrounding a trip and then you leave, then the Chinese are left with ‘Well they want to help us, they are really interested in what we are doing, they left us with these sort of guidelines of criticisms of what we’re not doing, now what do we do?’ I think that there’s confusion on the part of the Chinese who are hearing that the United States is very much interested in helping with things like WTO compliance, very much interested in offering training programs and assistance and nothing is forthcoming. Whereas, I think for European donors who are on the ground and have people available who are actually visiting them on a regular basis asking them ‘What are you working on now?’ and ‘How are you doing and is there something we can provide to you?’ you get a lot of leverage from that.358

While the U.S. had been busy arguing over whether or not to revoke China’s MFN status, other liberal democracies had been busy setting up programs in China.

358 Ibid.
These suggestions of the need for a greater U.S. presence in these programs appeared to resonate because by 2005 the Bush administration had significantly increased U.S. funding for technical assistance and capacity building programs. In a 2005 hearing, Gretchen Birkle, Principal Deputy Assistant Secretary of the State Department’s Bureau of Democracy, Human Rights, and Labor outlined the steps the Bush administration had taken to support these programs:

President Bush has made the promotion of freedom and democracy the cornerstone of U.S. foreign policy. This principle guides decisions about the character of our foreign assistance and allocation of resources. Through a Congressional appropriation, the State Department is funding rule of law programs. We are actively engaged in promoting the rule of law in China through dialogue, programs, and multilateral fora. …

This year, we are programming $19 million to promote rule of law, civil society, human rights, and democracy in China. The projects we fund [assist] Chinese men and women who want to promote reforms that will lead to near-term results, while laying the foundation for a long-term structural political transformation. These programs address some of the most serious human rights concerns, including the need for due process, the harassment and detention of criminal defense lawyers, and the need to reform the reeducation-through-labor system. We support projects to train judges, prosecutors, and lawyers in the use of oral advocacy skills, ethics, and judicial independence. These training programs seek not only to build skills, but also to engage members of China’s legal community in reforming their legal system. …

A strong civil society is indispensable for a key part of a nation governed by the rule of law. To this end, we are also supporting projects to help non-governmental organizations become effective advocates for their communities by training them in advocacy skills and project management.\(^{359}\)

However, even by 2009, the levels of U.S. government support for these programs still lagged behind the E.U. In 2009, former State Department official under Clinton Susan Shirk, was asked to reflect on what a better U.S. human rights policy should include.

She, too, suggested that the U.S. fund capacity building programs in China and asserted that both in comparison to what the U.S. was doing in other countries and also in comparison to European countries, U.S. funding for these programs in China was very limited. Shirk pointed out that a large barrier to increased funding was the morally polarized U.S. policy discussion. She advised:

I think something we could do that would be very constructive would be to spend more money helping promote legal system development and the free press and civil society in China, which will be the foundation for an effective democracy if one is ever to develop in China. I can understand why we have restrictions on the money we can spend because we feel it as a matter of principle we shouldn’t support the Chinese Government. But the time has come for us to reduce those restrictions.\(^{360}\)

In the U.S., funding for such programs had been perceived as supporting an immoral, human rights-violating regime. Acting on “principle” prevented the U.S. from engaging in constructive approaches to human rights promotion in China.

The rule of law focus provided a means to unite business and human rights interests. Friedman’s third op-ed in the series highlighted the overlapping interests of both business and human rights actors in the establishment of rule of law in China. Friedman admonished the business community to build a bridge to the human rights community by helping to develop the rule of law:

Yes, the job of business is to make profits for shareholders, not to campaign for dissidents, like Wang Dan. But if business can’t be persuaded to sacrifice profit for principles, it should be persuaded not to sacrifice the long term for the short term. In the short term, businesses can operate in China, without adequate rule of law there, by simply buying risk insurance or paying bribes. But this is a very shortsighted strategy. …

U.S. business leaders better wake up. They do business with China in the context of a larger U.S.-China relationship – and anyone who has been to Congress lately knows this larger relationship is in trouble. There is a sour mood in Congress these days about China – a feeling that in the last few years the U.S. has so cravenly put profit ahead of principle with China that people are a little but ashamed. This mood could produce a violent reaction by Congress … If U.S. business wants to prevent such a lurch backward, it needs to start taking some responsibility for improving the overall framework of U.S.-China relations. That means taking some initiative to bridge the huge gap between the U.S. business community and the U.S. human rights community when it comes to China – rather than always widening that gap. Business could start by looking for ways to promote rule of law in China, which helps commerce, human rights and the Chinese people.\(^\text{361}\)

The economic liberalization to political liberalization myth was edited into a new variation—the establishment of commercial law (as facilitated by China’s joining of the WTO which necessitated the establishment of PNTR with China) would promote the overall establishment of rule of law. Though business groups only made rare appearances during the CECC hearings, when they did, they also supported U.S.-funded rule of law programs. For example, during a hearing in 2002, Christian Murck, chairman of the American Chamber of Commerce in Beijing, suggested, “We hope that the United States Government, which has been a strong spokesman and critic of China with respect to rule of law, will in the coming years begin to fund in a material way capacity building efforts, which it has not done to date, particularly by comparison with the Europeans.”\(^\text{362}\)

A group that was largely absent from the MFN debates that were now key actors in the human rights policy discussions in the CECC was legal scholars and practitioners. Commissioners turned to law professors for expert guidance on how to


promote legal development in China. Legal scholars advised the Commission that what China needed was not just laws but legal *institutions*. During a 2002 hearing, Professor William Alford, a professor of law and director of East Asian Legal Studies at Harvard Law School, asserted, “It is not chiefly a question today of the promulgation of legislation in China … It is a question of building institutions that give those laws vitality. China is moving … in that direction, but it needs a great deal of help. We need … to reach out to the Chinese populace as a whole to help acquaint it with its rights and provide it with more institutional vehicles for realizing those.”

During the same hearing James Feinerman, professor of Asian Legal Studies and director of Asian Law and Policy Studies at Georgetown University Law Center, delved further into what these institutions might look like and how U.S. programs could help:

I would just like to add that there are some missing bricks in the structure that also need to be addressed, and there are programs that we could effectively mount that might help with them. The judiciary, for example. If you are going to try and make these claims and process these rights, you need judges who understand the law, who can actually make change happen. That is one of the weakest links in the Chinese legal system as it has evolved today. There are also resources that could be devoted, and we have a lot of experience in the United States with what would be called popular legal education, that is making more citizens more broadly aware of what their existing legal rights are and creating a groundswell of pressure for pushing for more of them. That is the kind of thing where American experience and techniques might be brought to bear with regard to that. Last, I would just echo a point that I think Professor Alford was making. That is, sometimes it is easy to mistake certain kinds of progress for genuine progress, to look—and the Chinese are often very good at this—at the number of laws that were passed, the number of lawyers that have been trained, and just look at statistics without seeing

---

outcomes, without seeing what has really happened. That is the important think, I think, to try and assess.\textsuperscript{364}

The types of questions posed by the chairmen of the hearings centered on extracting practical information for developing legal programs. For example, during another hearing in 2002, chairman Max Baucus asked witnesses to respond to the following questions:

How does the criminal justice process work in China? … How can we help it improve?
Second, what is the current status of lawyers in China? To what degree can they challenge police and prosecutors and defend clients without fear of punishment or retribution? How can we help improve the situation for lawyers in China?
Third, is China a more rules-based system now than in the past? What are the trends?
And fourth, can one differentiate a rules-based, commercial law system and a rules-based civil and criminal law system?\textsuperscript{365}

**Supporting China’s Civil Society**

A positive strategy that had not been discussed in the context of the MFN debates was that of encouraging the development of civil society in China. While there were plenty of discussions, primarily by opponents of MFN revocation, that economic liberalization would lead to political liberalization in China, none spoke of the need to actually cultivate civil society institutions which would facilitate such a progression. Rather, there was an assumption of automaticity and inevitability. In contrast, during the CECC hearings and roundtables, participants discussed the need to cultivate internal forces of change within China.

\textsuperscript{364} Ibid.

\textsuperscript{365} Congressional-Executive Commission on China, *Taming the Dragon: Can Legal Reform Foster Human Rights in China?*, 107\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2002.
In his testimony during a CECC roundtable in 2003, former political dissident Wang Dan asserted that in addition to maintaining international pressure on Chinese leaders to improve respect for human rights, the U.S. should help to cultivate civil society in China. He stated:

[I]t is obvious that China still lacks a mature civil society. However, over the last 14 years we have witnessed the gradual emergence of a developing civil society. I think it is very important that the United States pay attention to these sprouts of civil society in China and do all that it can do to cultivate them. I believe that it is short-sighted for the U.S. Government only to focus on the actors in the Chinese Government and the Chinese Communist Party. Therefore, I think that U.S.-China policy should move from only on human rights issues to other issues of political reform and democratic politics. One of the things that the United States can do is to provide support for NGOs and universities in China as a way to promote social contacts.366

Wang also suggested that the U.S. create “a more detailed and in-depth strategy” for promoting human rights in China, claiming that “it is not enough for the U.S. Government merely to take a general stand to promote democracy in China.”367 This in-depth strategy, he elaborated, should include “projects promoting the rule of law, freedom of the press, or worker’s rights.”368 But he also warned that these projects should be undertaken with consultation with Chinese people so as not to be misinterpreted as a harmful external influence.

During a 2008 hearing, Tiananmen veteran Han Dongfang also insisted that change must come from within China and that the U.S. should focus on empowering Chinese civil society rather than external pressure. He claimed:

367 Ibid.
368 Ibid.
We have to jump out from the traditional way of thinking, which is only giving the Chinese Government pressure. But now the question is, the Chinese people are standing up. How can we better assist the people to act on their own behalf rather than make this huge country depend too much on international pressure on the Chinese Government. In other words, we should really put more trust on the Chinese people’s power, which is the Chinese Government that cares more about them, cares more about them than the international pressure.  

Bob Fu, another Tiananmen veteran and president of the China Aid Association, agreed with Han, stating, “I … agree with Mr. Han about how, in the free world, instead of just the pressure, we should also empower—how to empower these human rights lawyers, how to use every tool at our disposal to help them, to equip them, to really encourage them by visiting them, hug them, send them a letter.” During a 2009 hearing reflecting back on 20 years of U.S. human rights policy since Tiananmen, participants debated how the U.S could best cultivate democratic forces within China. Yang Jianli, a Tiananmen protestor and president of Initiatives for China, asserted:

Three conditions must be present to effect political change in China: (1) viable opposition; 2) crisis; (3) international support. So I don’t know why so many people are afraid of talking about opposition. I think a part of U.S. policy toward China must be nurturing the growth of opposition in China. Democracy forces, if you will. Opposition may be too harsh a word. But without that, I don’t see there is a possibility for China to change. So I always call for open engagement with democratic forces in China.

Calls for empowering civil society in China were coming from dissidents within China. Internal Chinese dissidents became a stronger presence in the CECC

---

370 Ibid.
discussions compared to the MFN debates where they were a marginalized presence. Figures who had been prominent in the MFN debates like Wei Jingsheng and Harry Wu were not present during the CECC discussions. While there was a split in the Chinese activist community throughout the MFN debates, this split became most evident during the PNTR debate. In 2000, Joseph Kahn of the *New York Times* observed:

> In newspaper opinion pieces and lobbying calls on Capitol Hill, Chinese democracy leaders are expressing opposite views about whether permanent normal trade relations will increase or retard human rights and political freedoms. The conflicting messages have largely neutralized the dissidents’ impact on the vote, lawmakers said today, and appear to have driven a new wedge between opposition leaders who have long tended to fight among themselves instead of unifying against the Beijing government.

Leading the dissident opposition to PNTR was Wei Jingsheng who Kahn cited as saying, “The moment Congress says yes to permanent normal trade relations is the moment that China stops listening to what the United States says about human rights.” During the PNTR Congressional debates, policymakers who opposed PNTR tried to leverage Wei’s credibility. In trying to gain support for his proposal for the Jackson-Vanik 2 bill, Representative Cox stated:

> Seated to my right is the father of the Chinese democracy movement, Wei Jingsheng, who is well-known certainly to all of the members of this committee and I dare say to many people throughout the United States of America. … If we believe in human rights, if we share his cause, we cannot in good conscience cast a vote on the floor of the House of Representatives to

---


373 Ibid.
repeal the U.S. human rights review that is a part of Jackson-Vanik and has been there for 25 years.\textsuperscript{374}

In another PNTR hearing, Rep. Christopher Smith also cited the backing of Wei to support his stance against PNTR:

Mr. Chairman, the possibility of MFN revocation, even if it is only a distant possibility, is a critically important leverage that we must not surrender. And in appearance before my sub-committee shortly after his expulsion from China, former prisoner of conscience, Wei Jingsheng, a man who shed his blood on behalf of human rights and endured years of prison torture, explained the importance of the annual review to the status of human rights in China. He stated, and I quote, ‘The Chinese communists will only tolerate anything as a result of pressure. Once the pressure is lifted, then there is no question any more of tolerance.’ He further explained that in the view of the Chinese communist authorities the first and foremost area where the U.S. government can exert real pressure is in the field of trade.\textsuperscript{375}

While the weight of Chinese activist opinion favored the backers of MFN revocation during the MFN debates, this was no longer the case during the PNTR debates. The split was more obvious and seemed to shift in favor of those who favored the establishment of PNTR. A Washington Post editorial piece distinguished between the exiled dissidents, like Wei Jingsheng, Harry Wu, and Wang Xizhe, and the internal dissidents, like Bao Tong, Martin Lee, and Dai Qing, and sided with the internal dissidents:

The exiled dissidents sometimes dismiss the democracy campaigners within China. Nobody who remains under the rule of Beijing’s dictators can speak their true feelings, they suggest. But this underestimates the internal dissidents, who have proved their courage repeatedly in the same way that Mr. Wei proved his: by giving up freedom and family and comfort for principle.

\textsuperscript{374} House International Relations Committee, \textit{PNTR Status for China}, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., May 10, 2000.
\textsuperscript{375} House Ways and Means Committee, \textit{China’s Accession to the WTO}, 106\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., February 16, 2000.
It seems to us that the internal dissidents are weighing the risks and balances in a fair way. By granting normal trade relations, Congress gives up a weak human rights lever; the potential gains justify the concession. But increased trade and investment certainly do not guarantee improvement in China’s human rights behavior. Because of this, America needs to do more than just grant China permanent normal trade relations; it needs to intensify human rights pressure on Beijing in non-trade forums.\textsuperscript{376}

Thus, the voices that were marginalized during the MFN debates were gaining legitimacy by the end of the 1990s. We witness a growth in the voices of people who both opposed MFN and had moral credibility.

**The U.S. as Latecomer to Technical Assistance**

The U.S. was a relative latecomer in the area of human rights technical assistance programs to China. Many Western countries had started some form of technical assistance programs as part of a policy of bilateral “dialogue and co-operation” that would replace the confrontational strategy of pursuing resolutions against China in the UNCHR (Woodman 2004). These countries included Australia, Canada, Denmark, France, Germany, the Netherlands, Norway, Sweden and the United Kingdom (UK). The European Union, a regional body, also officially adopted this approach (Woodman 2004). China had offered “dialogue and co-operation” in exchange for these countries ceasing their support for UNCHR resolutions in the mid-1990s. Since the U.S. had continued to pursue UNCHR resolutions, they were not offered this concession. Thus, they were the only country in the 2000s to officially pursue a combined external pressure and internal empowerment approach to human rights promotion.

The countries that had adopted the “dialogue and co-operation” approach publicly justified this approach on the grounds that UNCHR resolutions had been an ineffective means to promote human rights in China. After deciding not to co-sponsor a resolution against China in 1997, Australian Foreign Minister Alexander Downer stated, “This Government took the decision not to co-sponsor the annual resolution on China … because we judged that it was not a constructive way of promoting human rights in China. For seven years, this resolution has been put forward, but never once adopted – not once” (Human Rights in China 1998: 17). The Canadian Government remarked of its decision not to co-sponsor a resolution in 1997, “The government has decided, in light of the significant weakening in consensus on the resolution among its traditional co-sponsors, that it no longer carries the same weight it has in the past year. Under the circumstances, we concluded that Canada could have a greater influence on the state of human rights in China by pursuing and intensifying our promising bilateral measures” (Human Rights in China 1998: 23). Norwegian officials used a similar ineffectiveness justification. A Human Rights in China report (1998) states, “[A top Norwegian diplomat] considered the annual failure of the resolution an embarrassment, for the sponsors, for China and for the United Nations itself. China’s leaders are serious about improving human rights, he said, and therefore much more could be achieved through engaging in direct discussions with them than through empty gestures in Geneva” (35). Human Rights in China offered a more cynical interpretation of the “dialogue and co-operation” bargain struck between these countries and China, asserting:
Despite the denials of governments involved in such dialogues that there is any connection between their desire to increase trade and the shift in their position on China’s human rights situation, the evidence demonstrates that it has certainly been a factor. Some of the strongest proponents of ‘dialogue’ among the E.U. countries are referred to as the ‘Airbus Club,’ because of their hope that improved relations with Beijing would increase the likelihood of getting orders for the European aircraft manufacturer from China (Human Rights in China 1998: 3).

The Human Rights in China report was critical of this trend towards bilateralizing efforts to promote human rights in China. In their report, they also testified to the effectiveness of international pressure for gaining human rights concessions from China. They claimed, “Contrary to what the Chinese government generally claims, the record shows that pressure – whether the threat of withdrawal of MFN status by the United States, or the tabling of a China resolution – has generally been a successful tactic for achieving concessions from Beijing, such as occasional releases of prisoners, promises to sign U.N. treaties, or significant legal reforms” (Human Rights in China 1998: 5). They attribute U.S. action to “pressure from public opinion and the Congress” (Human Rights in China 1998: 5).

**The Uncertain Effectiveness of Technical Assistance Programs**

Assessments of these technical assistance programs have been difficult due to a lack of transparency. Human Rights in China writes, “[T]he lack of transparency … means that there is no way to ensure the accountability of the whole process. This makes it virtually impossible to monitor progress, and thus to assess the efficacy of the approach overall or in specific cases” (1998: 13). In her assessment of ten bilateral programs, Woodman (2004) also speaks of the lack of transparency in these programs as a roadblock to assessments of their effectiveness. She reveals:
In terms of the programmes studied here, only the Nordics and the Netherlands were willing to share detailed project information and any evaluations with the author. Australia, Canada and the UK apparently have no provisions for public reporting on how aid money in this area is spent. Information provided by France was minimal to say the least. While transparency rules for the EU are better, since none of the large projects under study are completed, written information assessing their progress is not available, although for some projects there are basic reports on some activities. Extensive information is provided on Germany’s legal technical assistance projects implemented by GTZ, but little on other projects (Woodman 2004).

From the information she was privy to, Woodman (2004) suggests that these programs could benefit from more knowledge of the legal system and human rights, more coordination among programs, a greater diversity of partner organizations in China, and a combination of pressure and engagement. However, she also concludes that “overall those scholars and practitioners in China involved in donor-funded legal projects and exchanges felt that they were beneficial to both sides involved.” Not only are the effects of these programs difficult to assess due to a lack of transparency, their qualitative and long-term nature also lead to assessment difficulties. When asked about assessment measures for rule of law programs, Donald Clarke, Professor of Law at the University of Washington, admitted that he had not yet been able to find a good assessment tool: “How does one measure whether [rule of law assistance programs] have actually done any good? I think it is almost impossible to answer, certainly, in a quantitative sense. … So I think there is really no substitute for highly informed qualitative studies … But I regret to say, I do not have a good answer to the question.”377

The effectiveness of rule of law programs for improving respect for human rights in China is still subject to theoretical debate as well. Stephenson (2000) has questioned the potential of these rule of law activities to bring improvements in human rights on a theoretical level. He questions the assumptions that rule of law in the commercial area will carry over into other areas, that such programs have the ability to change China’s “legal culture” which are more greatly influenced by social, economic, and political structures, and that rule of law initiatives will cultivate bottom-up pressure for reform. Gewirtz (2003), the architect of the Rule of Law Initiative, who still continues to be involved in rule of law efforts in China, presents a more hopeful outlook for these efforts. He believes that these rule of law efforts may contribute to incremental changes in the Chinese legal system and in Chinese society.

Despite a lack of information on the effectiveness of capacity building programs, policymakers still moved forward with this approach. Therefore, even in the CECC forum, effectiveness was still not a central point consideration in policy discussion. There is still a lack of accountability to ensuring that policies are effective.

**CONTINUED CALLS FOR EXTERNAL PRESSURE**

Despite the shift to focusing on empowering internal forces of democracy and human rights in the CECC, there were still calls for the U.S. government to put external pressure on the Chinese government to change. These calls for continued external pressure came from the same coalition of policymakers and human rights groups that had advocated MFN revocation, and they used the same rationale—seeking prisoner releases. What becomes clear in examining the contours of U.S. human rights policy toward China over time is that U.S. human rights groups were not
the source of change rather they were the source of continuity in calls for sanctions. However, they had more standing in the context in the morally polarized setting of the MFN debates than in the depolarized setting of the CECC debates. The human rights coalition continued to call for external pressure in the form of verbal and physical sanctions toward China because they believed in the efficacy of these sanctions for the short-term goal of political prisoner releases. This may also explain the reason for the split between internal and external Chinese dissidents. Exiled Chinese dissidents were the ones who continued to call for external pressure, and they seemed to do so because their releases were a testimony to the success of external pressure.

During the CECC hearings, the primary group that pushed for sanctions was human rights groups and activists. When asked how the U.S. should use the 2008 Olympic Games to improve human rights in China, Huang Ciping of the Overseas Chinese Democracy Coalition, advocated using the Olympics as a carrot/stick:

> Well, I still think a practical way is, in some ways, similar as the most favored nation status, that if you threaten to revoke their right, then they would behave better. That is a common practice. You should know, in dealing with the Chinese Government, if you are tough, then they will take some lessons. So I do think that is why we strongly advocate to have a committee in charge of monitoring human rights conditions in China similar to this Commission, that if you were to ever say, well, we will revoke your trade privilege, then the Chinese Government will behave much better.\(^{378}\)

The only group that really questioned U.S. funding of legal development programs in China was the AFL-CIO who argued instead that businesses or the Chinese government should fund these programs. When asked by D. Cameron Findlay, Deputy Secretary of Labor, for suggestions on how to improve labor rights in China, Jeffrey L.

---

Fielder, an AFL-CIO consultant, continued to insist during a 2002 hearing that the U.S. had already given up its best tool—linkages:

Mr. Findlay. I think the question is, how do we advance freedom of association?

Mr. Fielder. Talk about it. The U.S. Government does not talk about it.

Mr. Findlay. Then what, beyond rhetoric, can the government do? Is there nothing that we can do?

Mr. Fielder. Then you are going to get into things which you have already rejected, which are linkages. We have enough domestic fights about including labor rights in international trade agreements. We seem to have lost that fight as well. So you are asking me again for all of the things that we have lost, and to come up with something short of that is acceptable to you when we laid out what we essentially believe is the minimum necessary.  

On the 20th anniversary of the Tiananmen Square protests, Representative Christopher Smith (R., New Jersey) argued that the U.S. should reconsider linking human rights and trade. He stated, “[I]’s time to revisit things like reestablishing a trade link or some kind of link. There is no penalty phase. China gets away, literally, with murder. … Egregious behavior cannot be rewarded or we’ll get more of it … PNTR [permanent normal trade relations] shouldn’t be PNTR anymore. It needs to be revisited, I would suggest, respectfully.”

Human rights groups had reservations about the emerging rule of law emphasis in the CECC. They believed that the CECC should still focus on the release of political prisoners, and that the way to secure these releases was through continued external pressure. Mike Jendrzejczyk of Human Rights Watch asserted that one of the

---

foci of the CECC should be the release of political and religious prisoners. Nancy Pelosi expressed her concern about the new systemic focus during the same hearing:

We know from the prisoners that their conditions in jail improve when their names are brought up. We also know that sometimes some of them are freed. So that is why I do not want to be wedded to the systemic structural change, which I do not really see in the bill, but I see that this has been presented as a criterion for whether we were to take a particular action. It is true, releasing a few prisoners does not solve the problem. But I still think that we should try to release some of the prisoners.

However, these criticisms of a structural emphasis did not derail efforts within the CECC forum to discuss means to encourage systemic change. While including keeping a list of political prisoners in China as one of their tasks, CECC commissioners continued to press on with the charge of discussing how to change the institutions in China that prevented human rights improvement.

Even those human rights groups that advocated a legal reform approach to promoting human rights in China argued that this should be *in addition to* external pressure not to the exclusion of it. Xiao Qiang, executive director of Human Rights in China, insisted that the U.S. use a dual-pronged approach of external pressure and internal capacity building:

I think there should be pressure from both sides, pressure from the outside externally. Several people have mentioned that, to engage China in playing by international rules, that includes human rights. If China wants to be part of the international community, which it does, increasingly, those basic norms must be respected. That is the one place where you can engage the Chinese leadership.

The other one I would fully emphasize is how to empower the Chinese people. When I say the Chinese people, not just those public advocates

---

382 Ibid.
for human rights and democracy, but also the reform-minded officials
at every level in Chinese society.\textsuperscript{383}

Human rights groups were reluctant to shed the external pressure dimension of U.S.
human rights policy toward China. During a hearing that had been largely focused on
supporting capacity building programs, Raj Purohit of the Lawyers Committee on
Human Rights interjected:

A lot of the talk here today has been about sort of constructed engagement and working with bar associations, civil society groups, and the chambers of commerce. All of that is crucial … All of those sorts of engagements, particularly at the private sector level, are going to happen. I think, as all of you know as well as we do, that the other dimension is going to be the external pressure now that we are done with some of these trade debates, getting that pressure put on the Chinese Government, raising these issues in a high-profile manner. … 

[W]e have got to have this balance between engagement, but also pressure and flagging at a very, very high level the problems.
I think, be it China or any other number of countries across the world where groups such as ours are concerned, we look to opportunities, for example, in presidential visits, for certain magic words to be raised, a particular case or a particular problem raised at the highest level, for the members of the Commission in particular, but all Members of Congress, I think, for them in their interactions with Chinese Government members, parliamentarians, etc., It is [alright] to be critical. It is [alright] to be critical and then, on the other hand, to be supportive of engagement. But we should not risk going too far the other way.\textsuperscript{384}

Now that the trade debates could no longer be used as a source of pressure on the
Chinese government, the main form of pressure human rights groups sought from U.S.
officials was verbal pressure in official exchanges. As Purohit put it, they looked for
the “magic words” of human rights to be raised on official visits. Human Rights

\textsuperscript{383} Congressional-Executive Commission on China, \textit{Human Rights in China in the Context of the Rule of Law}, 107\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2002.

\textsuperscript{384} Congressional-Executive Commission on China, \textit{Open Forum on Human Rights and the Rule of Law in China}, 107\textsuperscript{th} Cong., 2\textsuperscript{nd} sess., 2002.
Watch urged more public displays of support for human rights by U.S. officials: “The Administration and the State Department assure us that they are constantly raising these human rights concerns, and while we applaud those efforts—we really do—we question the efficacy of quiet diplomacy and the absence of more public measures. After all, the decreasing volume of U.S. criticism of China’s rights record over the past decade is in part to blame for the current situation.”

The main reason human rights activists gave for continued external pressure from the U.S. was its success in securing the release of political prisoners. During a 2003 roundtable, Tiananmen veteran Liu Gang described how American pressure had helped him by providing protection and inspiration:

By meeting with Western officials, we Chinese not only know more about the way of freedom, but also felt more safe and protected. The CCP Government seldom punished people because of contacts with Western officials. If anyone was punished because of these contacts, we believed that Western countries would strongly appeal for our freedom and human rights. Believe me, the CCP Government listens more to the American Government, to the American Ambassador, than to the Chinese people.

... I was really excited and inspired when I found out that [Nancy Pelosi] and other American politicians were consistently appealing for us. I am really thankful to her and all other Congress members who paid attention to my case, and the cases of other who were imprisoned for supporting democracy in China. Finally, my thanks to all of you for your consistent concern and appeals for releasing Chinese political prisoners. I want to thank the American people for providing us with political asylum here.

During the same roundtable, another Tiananmen veteran, Wang Dan, also testified about the effectiveness of international pressure:

---

I think we can admit that there has been some progress on human rights. But I think that this progress, at least partly if not completely, is due to the pressure from the international community. As an example, we can look at the period between 1992 and 1997. During that time, there was consistent, considerable pressure form the West. As a result, human rights violations in China decreased notably. After 1997, however, when the pressure was relaxed, there was substantial erosion of China’s human rights record. Therefore, I strongly believe that the United States and other Western countries should keep up their pressure on China to improve its human rights situation.  

The media continued to link human rights improvements in the form of prisoner releases to U.S. or international pressure. In 2004, *The New York Times* reported, “Under international pressure for its human rights record, the Chinese government on Thursday released a prominent pro-democracy dissident … The timing of Mr. Wang’s release … suggests a continuing effort by the Communist Party to curry favor with the United States and to repair its international reputation on human rights.” In 2005, Jim Yardley reported in *The New York Times*:

In steps apparently aimed at improving the diplomatic climate before a visit by Secretary of State Condolezza Rice, China released its most prominent Muslim political prisoner on Thursday, and the Bush administration said it would not seek to censure China at the United Nations Human Rights Commission’s annual meeting in Geneva. The release of the prisoner, Rebiya Kadeer, 58, was praised in Washington by Adam Ereli, a State Department spokesman, who also listed what he said were several recent ‘improvements’ in China’s human rights record. Ms. Kadeer was freed on medical parole and was headed to the United States, according to the Dui Hua Foundation, the San Francisco-based human rights organization involved in the release.

---

387 Ibid.
Like reports in the 1990s about prisoner releases, the reports in the 2000s continued to indicate that the Chinese government did not admit to the wrongful imprisonment of these prisoners and exiled them on the basis of “medical parole.”

The short-term focus of human rights groups on prisoner releases propelled their continued calls for external pressure from the U.S. upon China. Human rights groups had not revised their tactics in the context of the depolarized debates, but their voices had become more marginal than they had been in the MFN debates. Unlike with the MFN debates, in the CECC debates, sanctions were no longer see as the only option, but one among several options being weighed and considered. Sanctions only seemed to be the only option when they were framed as such in the context of a morally polarized debate, an environment in which mainstream human rights groups thrived. A depolarized environment was no longer conducive to the preferred name, shame, and pressure methods of human rights groups.

**THE PRIVATIZATION OF U.S. HUMAN RIGHTS POLICY**

Though discussion of U.S. human rights policy toward China continued in Congressional hearings, public policy discussion came to a near halt after the MFN and PNTR debates concluded. Public attention to human rights in China as measured by media coverage declined when the MFN debate ceased, with the exception of a spike surrounding the 2008 Olympics (see Graph 6.1). In reading *The New York Times* and *The Washington Post*, the U.S. public would have no idea that the Congressional-Executive Commission on China had made internal cultivation of democratic forces in China the crux of their human rights promotion efforts in China. The only time when the CECC was cited in the media was when they held a hearing on China hosting the
Olympics and the implications for this on human rights. Once a policy discussion becomes depolarized it becomes more productive but also less newsworthy. While the annual State Department reports on human rights continued to draw public attention in the 2000s, the annual CECC reports never made it into the news. When members of Congress were cited in newspaper articles on human rights in China, it was not typically members of the CECC but rather those who had traditionally been involved in rights advocacy, including Nancy Pelosi, Christopher Smith, and Frank Wolf, all of who remained critical of human rights problems in China. In 2009, however, Pelosi’s public stance on human rights in China appeared to be changing course. The press observed that on her trip to China in 2009 as Speaker of the House, Pelosi was unusually mute on the topic of human rights.390

Deliberative democratic theorists have mixed feelings toward publicity and its effects on deliberation. On the one hand, they praise publicity’s salutary effects (Chambers 2004: 390). These salutary effects include accountability to better reason-giving and to public-spiritedness (Chambers 2004). On the other hand, they worry that publicity can also have several negative effects on deliberation. Bessette (1994) identifies three negative effects that publicity can have on legislative deliberation: 1) it can “promote posturing at the expense of genuine reasoning about the public good,” 2) it can “make lawmakers much more directly accountable to interest groups whose support they may need for reelection,” and 3) it can make lawmakers more accountable to their geographic constituents rather than to broad national interests.

390 Cha, Ariana Eunjung and Glenn Kessler, “Pelosi Mum on Rights Before Trip to China; Speaker, as Clinton Has, Plays Down Topic; Focus Will Be Climate Talks, The Washington Post, May 24, 2009.
(223-224). Chambers (2004) also argues that publicity can lead to “plebiscitary reason,” or a shallow, poor reasoning that appeals “to the worst that we have in common” (393).

In the case of publicity’s effect on U.S. human rights policy toward China, the negative effects of publicity seemed to outweigh its salutary effects. Publicity created pressure for the use of sanctions since sanctions were framed as the moral option in a morally polarized debate. There was little genuine discussion of the cons of sanctions use for human rights promotion. Supporters of sanctions used absolutist reasoning, eschewing considerations of the possible negative consequences of sanctions for human rights promotion. Moreover, a context of moral polarization made it difficult for anyone with a human rights identity to argue for an alternative to the MFN sanction. The CECC discussions, which were out of the public gaze, allowed a search for potentially more effective and more humane methods of human rights promotion. Thus, the negative effects of publicity are enhanced in the context of morally charged decisions.

This does not, however, mean that human rights violations in China disappeared from public view in the U.S. Though at a slower rate, there were still articles being published on human rights violations on China, primarily violations of political freedoms. Yet, the articles also focused on different types of victims. Rather than proponents of democracy, religious adherents, or ethnic minorities, a new set of victims emerged—human rights lawyers and human rights advocates. 391 While these

were still reports on violations of political rights, they also indicated the emergence of a grassroots movement toward rights advocacy in China. There were human rights lawyers now, and they were seeking to protect the human rights of Chinese citizens.

CONCLUSION

The search for a new way to promote human rights in China besides sanctions did not begin until the policy discussion shifted to a depolarized setting. The CECC which was set up to maintain Congressional attention to China’s human rights issues with the end of the annual MFN debates did more than maintain the discussion. It transformed the discussion, and it transformed the focus of U.S. efforts from coercive to constructive methods of human rights promotion in China. In the context of a depolarized discussion, absolutist arguments and assessments of moral credibility lost their relevance. Depolarization did not lead to the eradication of sanctions, but to their marginalization. Calls for external pressure were maintained at the margins of the policy discussion by a now more marginal human rights coalition that was still focused on prisoner releases. The focus of policy discussion turned from simply exerting external pressure on China to cultivating internal forces of change through rule of law and human rights capacity building programs. What prevented earlier Congressional support of such programs despite an earlier attempt by the Clinton administration to implement them were the morally polarized dynamics of public and Congressional deliberations.

GRAPH 6.1: NEWSPAPER ARTICLES ON HUMAN RIGHTS IN CHINA BY YEAR
CHAPTER 7
CONCLUSION

But at a time when our discourse has become so sharply polarized – at a time when we are far too eager to lay the blame for all that ails the world at the feet of those who think differently than we do – it’s important for us to pause for a moment and make sure that we are talking with each other in a way that heals, not in a way that wounds.

-- President Barack Obama, Tucson Memorial Speech (2011)

One of the questions that Americans have been asking in light of the shooting in Tuscon on January 8, 2011 is whether or not polarized discourse increases politically-motivated violence. What are the consequences of polarized discourse? In my dissertation, I specifically examine the consequences of polarized discourse for human rights policymaking in the U.S. I began with the question of why U.S. policymakers and the American public continue to advocate the use of sanctions for promoting human rights abroad when they are ineffective and ethically questionable. This is a question that has persistently puzzled scholars of international politics. What I have demonstrated is that to understand this puzzle we must examine the public deliberations surrounding policymaking. By analyzing the public and legislative deliberations surrounding the formulation of U.S. human rights policy toward China, I have discovered that what facilitated the continued advocacy of sanctions for human rights promotion was a sacred, morally polarized deliberative context. In this context, sanctions were framed as the “moral” option and backed by people with moral credibility. U.S. economic and political interests proved to be an obstacle to the costly sanction of MFN revocation, however, they did not change the meaning accorded to sanctions. They did not undermine the sanctions logic to human rights promotion. Therefore, the resulting compromise in the U.S. was to use less costly but still
ineffective sanctions. Alternative methods of human rights promotion were not considered until the policy discussion entered a depolarized setting.

**WHY SANCTIONS ADVOCACY PERSISTS**

**THE MORAL IMPETUS FOR A COSTLY SANCTION**

In examining public and Congressional deliberation surrounding U.S. human rights policy toward China over the course of 20 years, I found that sanctions advocacy thrives in a particular social setting—a sacred, morally polarized debate. In his analysis of the sanctions paradox, Baldwin (1999/2000) writes, “[I]f the principal alternative to economic sanctions is appearing to condone communism, racism, terrorism, or genocide, the observation that they are a ‘notoriously poor tool of statecraft’ may miss the point” (84). What was an aside in his article is the headline of this dissertation. The use of ineffective and inhumane sanctions only makes sense in the context of moral polarization. It is in this particular context that absolutist reasoning trumps consequentialist reasoning and that policymakers follow the lead of good people regardless of whether or not they advocate good policy. In a 1999 article in *Foreign Affairs*, Senator Jesse Helms (R., North Carolina), states, “There are … three tools in foreign policy: diplomacy, sanctions, and war. Take away sanctions and how can the United States deal with terrorists, proliferators, and genocidal dictators. … Sanctions may not be perfect and they are not always the answer, but they are often the only weapon.” What unites terrorists, proliferators, and genocidal dictators is the moral outrage they incite. This outrage is not assuaged by arguments of ineffectiveness or inhumaneness. Just as the terrorists, proliferators, and genocidal dictators cannot be reasoned with neither can the morally outraged.
As Helms’ statement reveals, it is true that sanctions are institutionally inscribed in U.S. foreign policy both in a regulatory and cognitive sense. They are part of the traditional foreign policy repertoire. Trade is also one of the primary vehicles that Congress uses to express its will in foreign policy. Sanctions often appear to be taken-for-granted as the only way in which Congress can intervene in foreign policy, and policymakers do have a hard time imagining alternatives. However, there are other options for Congress. Congress can also appropriate money to technical assistance programs to help promote human rights in China, but this option was not considered until the discussion over U.S. human rights policy moved to a depolarized setting. It is specifically in the context of a morally polarized debate that sanctions appear to be “the only option.”

The moral outrage of Congress toward President George H.W. Bush’s lenient actions following the Tiananmen crackdown led them to call for the costly economic sanction of threatening to deny China MFN trade status. Throughout the annual debates over whether or not China’s MFN status should be renewed, the media, policymakers, and activists framed the debate as a choice between principle and profit. The framing of the MFN decision as a moral trade-off led to the absolutist reasoning that the U.S. should do the right thing and sanction China. It also shaped the way in which moral credibility was assessed and made moral credibility a salient factor in the debates. The people who had the greatest moral credibility were exiled Chinese dissidents, mainstream human rights groups, and long-standing Congressional human rights warriors. Policymakers were persuaded to listen to what those with moral credibility wanted, and what they wanted was sanctions. Activists who called for
sanctions were narrowly focused on their ability to secure human rights concessions like the release of political prisoners. There were participants in the debate that questioned the utility of sanctions in foreign policy and the possible harm that they could cause Chinese people, but these people lacked moral credibility and, therefore, their arguments were not taken seriously.

Deliberators justified sanctions on the basis of expressive purposes. The major expressive purpose to which calls for sanctions toward China for its human rights violations were oriented was to affirm America’s identity as leading promoter of human rights around the world. Policymakers were careful, though, to justify their actions as principled rather than emotional. Acting based on one’s emotions was not seen as acceptable in the context of policy discussions, however, acting based on “principle” was viewed as acceptable and admirable. Thus, it is clear that policymaking is not simply guided by a calculus of U.S. material interests as a realpolitik perspective would assume. Policymaking is also guided by “moral” interests. While the executive branch of government may have been primarily guided by a calculus of material interest, they were still accountable to a public and a Congress who expected the President to act based on “principle” and not just profit. The executive was required to justify its actions in the language of principle and morality. This led to a compromise of less costly sanctions rather than an alternative form of human rights promotion.

**THE ECONOMIC IMPETUS AGAINST A COSTLY SANCTION**

Although there are strong moral forces in the U.S. that compel the use of sanctions in human rights promotion, there are also strong economic forces against the
use of costly sanctions like MFN revocation. Sanctions did not incite heated debate until a particularly economically costly sanction was on the table. Material sanctions are a tool of the strong, a tool of the powerful against the powerless. They “work” when one country or group of countries can deprive the target country of something they desperately need without being hurt in the process. This is why foreign aid is a less controversial stick. When Congress tried to employ the stick of the revocation of China’s MFN trade status, they were confronted by a business community and an executive that was not willing to pay the economic price. Yet, economic interests could not erase the symbolic association attached to sanctions as the moral option. Although some businesspeople tried to criticize the sanctions approach as ineffective and harmful toward the Chinese people, they did not have the moral sway to change the moral conversation since they were vilified as the enemies in a battle between principle and profit.

**INSTRUMENTAL EFFECTIVENESS A MINOR FACTOR**

In the context of a morally polarized debate, instrumental effectiveness became a minor factor in the policy discussions. First, the morally polarized framing of the debate as a battle between principle and profit led policymakers to reason that sanctions were “the right thing to do,” regardless of the consequences. Second, the morally polarized framing of the debate made assessments of moral credibility salient in the debates and shaped how moral credibility was assessed. Even though opponents of sanctions made the case that they would be ineffective and hurt the wrong people, these opponents lacked sufficient moral credibility to make their case heard. The consequentialist critiques of businesspeople, the Administration, and marginal actors
in the human rights world were dismissed as Congressional and non-governmental human rights advocates rallied around the “moral option.” Third, when pressed to consider effectiveness, policymakers and activists pointed to the short-term gains of prisoner releases and signing of international human rights covenants as well as token cases of historical effectiveness like in the case of South Africa to justify their use. Fourth, the criterion of effectiveness became a minor issue when the major issue for those with human rights interests was to do something and the major issue for those with economic interests was to avoid economic loss. While effectiveness was more of a consideration in the depolarized debates, there was still no systematic effort to assess whether or not technical assistance programs would actually effectively promote human rights in China. Policy decisions appear to be minimally guided by considerations of instrumental effectiveness and mainly guided by domestic politics.

**THE ABSENCE OF A MORAL VOICE AGAINST A COSTLY SANCTION**

While there was a strong moral voice for a costly sanction and a strong economic voice against a costly sanction, there was no consolidated moral voice against a costly sanction in public and legislative deliberation. Human rights groups, who we might expect to be the moral conscience of foreign policy, were focused on the ability of sanctions to bring about prisoner releases and not on their inability to bring deeper change or their ability to inflict harm on innocent civilians. Both in the context of a morally polarized debate and in the context of a depolarized debate, U.S. human rights groups were still unified in support of sanctions. If we revisit Kenneth Roth’s explanation (2004) of Human Rights Watch’s methodology, we see that
morality for them is an either-or choice between action or inaction and not a
discussion of what type of action is moral:

We are at our most effective when we can hold governmental (or, in
some cases, nongovernmental) conduct up to a disapproving public. Of
course, we do not have to wait passively for public morality to coalesce
on a particular issue; we can do much to shape public views by
exposing sympathetic cases of injustice and suggesting a moral analysis
for understanding them. In the end, the principal power of groups like
Human Rights Watch is our ability to hold official conduct up to
scrutiny and to generate public outrage. The relevant public is best
when it is a local one—that is, the public of the country in question.
Surrogate publics can also be used if they have the power to shape the
policies of a government or institution with influence over the officials
in question, such as by conditioning international assistance or trade
benefits, imposing sanctions, or pursuing prosecution (67).

They aim to present a moral analysis that will generate public outrage that will then
spur international sanctions. The moral analysis is of the situation and not of the
method. The methods are not subject to moral scrutiny.

Due to their naming, shaming, and pressure methods, human rights
organizations are most influential in a morally polarized environment. Interest groups
do lobby for or against existing policy options, but they reveal a more limited ability
to generate new policy ideas. This raises the larger question of who is responsible for
generating human rights policy ideas. If it is not the role of human rights
organizations, then whose role is it? In the case of U.S. human rights policy toward
China, we see the idea for the rule of law initiative came from a single persistent law
professor, Paul Gewirtz. How can new ideas be more institutionally cultivated?

The construction of U.S. human rights policy suffers from a narrow conception
of what is “moral.” Morality is defined as doing something in the area of human rights
rather than doing something that will actually bring systemic human rights change in
the target country. It seems that sanctions will continue to persist until there is an expanded moral conversation, in which those with moral authority make a case for the immorality of sanctions use in public and Congressional debates. Though this moral voice is present in academic writing, it is absent in public and legislative deliberations.

PUBLIC AND CONGRESSIONAL DELIBERATIVE REALITIES

In general, the deliberative realities of public and Congressional deliberations over U.S. human rights policy toward China do match up fairly well with the democratic deliberative ideals (see Table 7.1). Both the public and Congressional discussions reveal the public-spiritedness, mutual respect, and freedom from coercion that democratic deliberative theorists identify as ideal. There are some problems with equal participation due to the fact that participants must be invited to participate in hearings and letters to the editor may be filtered through an editorial staff. Moreover, in the case of the CECC forum, the members of Congress present are limited to those who are part of the Commission. Yet, in both settings it seems that many of the parties that would be affected by the decisions were allowed to participate. Whether or not the criterion of logical justification is satisfied depends on what one considers to be “logical.” Participants do engage in the act of justification, giving reasons to back their views. Yet, what is considered to be a good justification, as assessed through how other participants respond to these reasons, differs by setting.

DELIBERATIVE DIFFERENCES IN A SACRED VERSUS PROFANE SETTING

The findings of this study reveal that whether or not deliberation takes place in a sacred versus a profane setting matters in important ways for the types of
justifications that are considered acceptable and for the outcomes of deliberation. Table 7.1 summarizes the differences between deliberation and outcomes in the morally polarized setting of the MFN forum versus the morally depolarized setting of the CECC forum. The deliberative realities of the MFN setting versus the CECC setting only significantly differ in one respect, along the dimension of logical justification. Whereas absolutist reasoning was considered acceptable in the context of the morally polarized setting, it was not considered acceptable in the context of the morally depolarized setting. Thus, what is considered a “good” reason differs by meaning context. Moreover, when a debate is framed in sacred terms, people are unwilling to compromise leading to a lack of consensus and legislative gridlock. This comparison also points to another ideal criterion that is necessary if democratic deliberation is to contribute to better decisions—the criterion of equal credibility. In a morally polarized setting, the force of the better argument did not prevail because participants were influenced by the status of the speaker. Participants evaluated arguments not simply on the basis of whether or not they were logical or reasonable but based on whether or not the speaker was morally credible. Pure intentions overshadowed weak claims. Therefore, whether or not deliberation leads to more productive discussions and better decisions depends on the meaning context. The perception that sanctions were the only option and best response to China’s human rights problems thrived in a morally polarized setting. Polarization, in this case, led to a seemingly poorer public decision.

Does this mean we should simply eschew public deliberation in situations of moral polarization? While not speaking specifically of a morally polarized setting,
McCubbins and Rodriguez (2006) suggest that because public deliberation generally leads to poor decisions, expertise systems might be a better way to guarantee better decisions. They define better decisions as those that best promote social welfare. At least experimentally, expertise systems, where there is at least one “expert” present that participants can learn from, prove to lead to better decisions than deliberative settings that lack an acknowledged expert (McCubbins and Rodriguez 2006). Yet, we have seen how expertise can often obscure poor arguments. How can we be sure that the experts know best? In the experiments that McCubbins and Rodriguez (2006) cite, subjects are asked to solve mathematical equations, in which expertise might be easier to assess. From the perspective of liberalism, Estlund (1997) argues, “Experts should not be privileged because citizens cannot be expected or assumed (much less encouraged or forced) to surrender their moral judgment” (183).

Foregoing public deliberation would also be hazardous to democratic legitimacy. Gutmann and Thompson (2004) explain why a lack of deliberation is problematic for democratic legitimacy: “When binding decisions are routinely made without deliberation, the government not only conveys disrespect for citizens, but also exposes its lack of adequate justification for imposing the decision on them. Furthermore, there is a practical reason for officials to recognize the expressive value of deliberation: they can thereby increase the likelihood not only of discovering but also of implementing good public policy. If citizens perceive that their views are not being respected, they may seek to block otherwise good policies” (23). Democratic citizens will not see a decision as legitimate unless it has been arrived at in a legitimate manner. In the case of democracy, this means through democratic input. In
morally polarized settings, in which citizens believe that their core values are at stake, it is unlikely that they will consider a decision process that excludes them to be legitimate.

Steiner and his colleagues (2004) suggest that certain institutional arrangements can mitigate the negative effects of polarization upon deliberation. They found that compared to the American institutional configuration, German and Swiss institutional configurations led to higher quality discourse when it came to the polarizing issue of abortion. They observed, “In Switzerland, the consensus character of the political system helped deliberation. In Germany, less party cohesion worked in favor of high-quality discourse. The outcome, however, was similar in both countries. What could easily have been a partisan debate on one of the most divisive moral questions of our time was transformed into a debate in which legislators at least attempted to reconcile conflicting views, albeit not always successfully” (134). Is it possible to have more productive deliberations on polarizing issues without major institutional changes to American democracy? In this study, we have seen that one possibility is to move a polarizing issue to a more depolarized setting. This did, however, require a democratic sacrifice in terms of openness to participants.

**SUGGESTIONS FOR FUTURE HUMAN RIGHTS POLICYMAKING**

*Acknowledge the need for moral action, but expand the moral conversation.* What we see in this study is the need for a moral response from the U.S. government when the collective American moral identity has been offended. Moral outrage must be assuaged, and it is not assuaged by appeals to competing interests. In fact, calls for economic considerations may further fuel a morally
polarized debate that has been framed as principle versus profit. However, we see that a narrow definition of “moral” action actually animates a sanctions policy for promoting human rights which is not effective for improving human rights abroad and can actually harm innocent civilians. Thus, what is needed is an expanded moral conversation in which these moral consequences of sanctions are discussed by people who possess moral credibility.

**Open arenas for depolarized policy discussions.** In the context of discourse on U.S. human rights policy toward China, we see that polarized discussions are not productive discussions. In this context, people are more concerned with proving their morality than with finding constructive solutions to problems. While these types of discussions might be necessary as a forum to define the U.S. collective identity, they are not conducive to reflective discussions about how the U.S. can effectively promote human rights abroad. Representative Sander Levin recognized the need for a new depolarized forum for discussion of human rights in China, thus, establishing the Congressional-Executive Commission on China. More forums for depolarized discussion are needed.

**Encourage the generation of new policy ideas.** The U.S. government should think about how it can encourage the generation of new policy ideas. In this study, we saw how it is difficult for policymakers to think outside of the box of sanctions. We also saw how human rights organizations had trouble generating alternative policies. No one seems to be responsible for generating new policy ideas, or at least those who are responsible for this are absent in policy discussions. A search for new policy ideas could be facilitated by an institutional mechanism for encouraging the generation of
new policy ideas or ensuring that those with new policy ideas are part of the discussion.

**Recognize the limitations of external pressure.** Policymakers need to recognize the limitations of external pressure for bringing about deeper human rights improvements in other countries. Coercive means can bring concessions, but they are not conducive for persuading human rights violators of the importance of respecting human rights. “A man convinced against his will is of the same opinion still.” China will be better convinced by its own people than by external pressure to respect the rights of its people.

**Leverage moral power rather than material power.** U.S. policymakers should consider leveraging moral power rather than material power in human rights policymaking. One of the criticisms that has come from China is that the U.S. has no right to criticize human rights problems in China when it has human rights problems of its own. If the U.S. wants to speak powerfully for human rights abroad it must also be a powerful example of the virtues of respecting human rights at home. Moreover, leveraging moral power unlike leveraging material power does not cost the lives of innocent civilians.

**AVENUES FOR FUTURE RESEARCH**

This study has revealed the fruitfulness of carefully examining the public and legislative deliberations surrounding U.S. human rights policy toward China, however, it does have limitations. These limitations point to potential avenues for future research. First, a cross-national investigation would be helpful for understanding whether or not the U.S. is more susceptible to morally polarized debates due to its
particular configuration of institutions or cultural dynamics. Second, interviews of activists and policymakers could help to refine our understanding of the deliberative dynamics I have discovered. Third, studying other cases of moral polarization would be helpful to decipher whether or not the dynamics I have uncovered are generalizable to all cases of morally polarized debate. Fourth, we need better studies of the effectiveness of alternative approaches to human rights promotion besides sanctions. Finally, this study reveals a need for more research on peaceful means to resolve international conflict.
<table>
<thead>
<tr>
<th>Meaning Context</th>
<th>Democratic Deliberative Ideal Conditions</th>
<th>Deliberative Reality</th>
<th>Deliberative Outcomes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sacred (Morally Polarized)</strong></td>
<td>Equal Participation</td>
<td>Limited to invited participants, but many perspectives represented</td>
<td>Lack of consensus - Absolutist reasoning acceptable - Credibility of speaker and not just strength of reasons matters - Gridlock - Strong advocacy for sanctions</td>
</tr>
<tr>
<td>Logical Justification</td>
<td></td>
<td><em>Justification based on absolutist reasoning and consequentialist reasoning</em></td>
<td></td>
</tr>
<tr>
<td>Public-Spiritedness</td>
<td></td>
<td>Arguments framed in a public-spirited way</td>
<td></td>
</tr>
<tr>
<td>Mutual Respect</td>
<td></td>
<td>Some lack of respect for participants who lacked moral credibility, but general respect</td>
<td></td>
</tr>
<tr>
<td>Freedom from Coercion</td>
<td></td>
<td>Participants do not try to change others’ opinions through use of force</td>
<td></td>
</tr>
<tr>
<td><strong>Profane (Morally Depolarized)</strong></td>
<td>Equal Participation</td>
<td>Limited to invited participants and CECC members</td>
<td>Greater consensus - Absolutist reasoning marginalized - Credibility of speakers not questioned - Productive discussion - Strong advocacy for internal empowerment methods</td>
</tr>
<tr>
<td>Logical Justification</td>
<td></td>
<td><em>Justification based on consequentialist reasoning; absolutist reasoning absent</em></td>
<td></td>
</tr>
<tr>
<td>Public-Spiritedness</td>
<td></td>
<td>Arguments framed in a public-spirited way</td>
<td></td>
</tr>
<tr>
<td>Mutual Respect</td>
<td></td>
<td>Respect for fellow participants</td>
<td></td>
</tr>
<tr>
<td>Freedom from Coercion</td>
<td></td>
<td>Participants do not try to change others’ opinions through use of force</td>
<td></td>
</tr>
</tbody>
</table>
REFERENCES


Cardenas, Sonia. 2007. Conflict and Compliance: State Responses to International


Shaping Abortion Discourse: Democracy and the Public Sphere in Germany and the United States. New York: Cambridge University Press.


