

## **China's Future – and Our Own**

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**The Future of China**

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Mr. Chairman, I am grateful for the opportunity to address the momentous question of “The Future of China”, especially since, increasingly, China’s future and our own are inextricably linked. In these brief opening remarks, I will discuss China’s internal situation, then its external relations.

### THE INTERNAL SITUATION

Forecasts of China’s future run the gamut. I do not endorse either extreme. There is no significant chance that in the foreseeable future the Communist government will follow the fate of the Soviet Union. Nor do I share the view that the People’s Republic is becoming so powerful that it will dominate the world.

Despite its remarkable recent achievements, China’s economic, social and political problems are many and growing. It is possible that Beijing’s performance may now have peaked. Its accumulating problems and failure to develop a political system adequate to deal with them may soon be seen, both inside and outside the country, to constrict its further progress and the deployment of its impressive assets.

Many a Chinese leader must think it a cruel twist of fate that a regime that has done so much to improve the living standards of hundreds of millions of people should be so obviously frightened about its continuing viability. Yet the Communist Party can be seen as a victim of its own successes as well as its apparent failures. No country can modernize as rapidly as China without suffering the enormous consequences of immense social change.

Rather than basking in the gratitude of a contented nation, Xi Jinping and his colleagues have revealed themselves to all the world as cats on a hot tin roof. Their pomp and propaganda at home and abroad cannot conceal their fear of overthrow or disintegration. Their attempt to limit the impact of Western values, ideas, institutions and practices, embodied in the current draft legislation to restrict foreign cooperation in education, civic affairs and politics, is a deeply embarrassing and shameful public confession of the fragility of their system.

Having benefitted from several decades of the “open policy” initiated by Deng Xiaoping, his fear-mongering successors now want to cut off the “ideological infiltration” they believe threatens their “democratic dictatorship”. If successful, this new policy will inhibit China’s ability to respond to domestic and global demands. As my colleague Ira Belkin recently noted, “It’s a bad 1960s policy for a 2015 challenge”.

Because of the system’s non-transparency, Xi Jinping knows far better than we do the vulnerabilities underlying China’s formidable achievements. Staggering pollution, massive corruption, labor unrest, unfair land transfers, growing income inequality, arbitrary bureaucracy, ethnic tensions and invidious social discriminations, increasing persecution of human rights lawyers and civil society reformers, a Party-dominated judiciary, and ever greater curbs on social gatherings, journalism, the Internet and social media are fuelling discontent and resentment that a now significantly troubled economy and an anticipated stock market crash can ignite. As Chairman Mao admonished, and the June 4, 1989 Tiananmen tragedy demonstrated, “a single spark can start a prairie fire”.

Yet repression offers no long-run solution and cannot last forever. In the mid-1980s, Taiwan’s Chiang Ching-kuo, although heir to his father Chiang Kai-shek’s Leninist party dictatorship, recognized that secure progress requires gradual political reform and launched the process that transformed Taiwan into a vibrant democracy. China needs similar enlightened leadership today.

Understandably, China’s Communist elite is far from united in how to confront its many challenges. Despite General Secretary Xi’s attempt to impose monolithic controls on the Party, the first three years of his rule have exposed major cracks in the leadership. The life prison sentence meted out behind closed doors last week to China’s formerly feared national security chief, Zhou Yongkang, is only the most recent evidence of a continuing power struggle as well as the operation of the Party’s “socialist rule of law with Chinese characteristics”. The Chinese people, who have generally supported Xi’s persisting campaign to reduce official corruption, are waiting to see whether he is willing to risk further elite dissension by pursuing corrupt leaders who, unlike Zhou, have not been his political rivals. At the same time, many Chinese are hoping that Xi will moderate his repressive course and gradually lead them toward reforms that will give full play to their prodigious capacities..

FOREIGN POLICY

Although China's increasingly "assertive" international conduct has naturally stirred widespread concern in both Asia and this country, especially regarding the South China Sea, an overview of Beijing's foreign policy suggests a less alarming perspective. In some major subjects, such as environmental pollution and climate change, there are good prospects for Beijing's cooperation with the United States and other nations. Next week's annual Sino-American Strategic & Economic Dialogue should illustrate the continuing ability of the world's two economic super-powers to develop compromises regarding trade, financial and investment problems that inevitably arise. Despite certain compliance issues, China's participation in the WTO has, on the whole, been positive, as has much of its direct investment in an expanding list of countries. Indeed, through its newly-established Asian Infrastructure Investment Bank and related organizations, Beijing is now pursuing an innovative and constructive financial course, to the embarrassment of our own government.

Beijing as well as Taipei should also be given credit for the past seven years of cooperation across the Taiwan Strait that have significantly improved stability and security in Asia. But the impending departure from office of Taiwan's President Ma Ying-jeou and growing Taiwanese fears of the Mainland dictatorship's threat to the island's democracy should alert us to the forthcoming renewal of earlier tensions.

Of course, we do not see eye-to-eye with China on a number of controversial issues including North Korea, the Middle East and Ukraine, and evolving Sino-Russian relations generally require our greater attention. Yet other issues raise even more serious challenges.

Among the most abiding is Beijing's continuing violation of obligations it has assumed in over twenty international human rights treaties and related documents. The proposed legislation designed to restrict the activities of foreign NGOs and educational organizations mentioned above will surely have a further adverse effect on Beijing's international relations. Coming to grips with the devastating cyber attacks now being attributed to China – and the much less-publicized American cyber attacks on China – may prove to be the most difficult topic confronting our two governments, since, as yet, there are no specific international laws or institutions for dealing with it.

Most immediately threatening to our relationship, however, is today's drama in the South China Sea. Here, fortunately, the United Nations Convention on the Law of the Sea (UNCLOS) does provide not only rules for determining conflicting maritime claims but also legal institutions for impartially applying those rules. In 2013, the Philippines, in a desperate attempt to invoke law as a defense against overwhelming power, stunned China by bringing an UNCLOS arbitration challenging Beijing's expansive and vague "nine-dash line" and seeking to confirm crucial distinctions between submerged "reefs", bare "rocks" and credible "islands". The arbitrators' decision promises to clarify the

legitimacy and legal consequences of the troublesome Chinese “land reclamation” projects that have profound military implications.

Thus far, unfortunately, China, while seeking to defend its actions in the realms of propaganda and scholarship, has refused to submit to the independent arbitration tribunal’s jurisdiction. These impartial experts are expected to rule on their jurisdiction this winter. If China thumbs its nose at an adverse decision and a subsequent determination of the merits of the dispute, it will be in blatant violation of UNCLOS obligations that it freely ratified after taking an active part in the long negotiations preceding the treaty.

As recently underscored by Singapore’s distinguished legal expert Tommy Koh, who presided over the successful conclusion of the UNCLOS negotiations, China, in flatly rejecting all opportunities for peaceful settlement of maritime as well as territorial disputes through international arbitration, adjudication and other third-party procedures, is plainly out of step with the practices of other Asian countries and the rest of the world. To be sure, impartial dispute resolution often cannot replace negotiations, but it can always do much to narrow the issues and stimulate as well as inform diplomats who have thus far failed to propose and agree upon the imaginative solutions that are urgently required.

The present crisis in the South China Sea has a significance that goes far beyond the immediate claims involved. If China - and the United States, which has not yet even acceded to UNCLOS – cannot agree upon and respect in practice mutually beneficial rules and institutions for peacefully settling disputes, the future of both countries and the world community will surely be gloomy. This issue must be placed high on the agenda for Xi Jinping’s visit to Washington in September!

#### A CONCLUDING THOUGHT ABOUT CONTEMPORARY CHINA

For centuries, foreign observers of “the Central Realm” have emphasized their own concerns. Not surprisingly, I believe that one of the themes connecting Beijing’s domestic and foreign policies today is insufficient recognition of the importance of a pluralistic society and the legal institutions required to promote it. “Rule of law” is a term of many meanings that has often been abused. But China would benefit at home and abroad by demonstrating increasing respect for its core meaning – government under law. And the United States, by striving harder to set a good example, could do much to improve not only our own society but also our standing in China and the world.

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