

**Department of Social Sciences**

**The Impact of Internal and External Responses on Human Rights  
Practices in China: The Chinese Government and the Spiral Model**

**Caroline Fleay**

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## **Declaration**

This thesis contains no material which has been accepted for the award of any other degree or diploma in any university. To the best of my knowledge and belief this thesis contains no material previously published by any other person except where due acknowledgement has been made.

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## **Abstract**

This thesis assesses the usefulness of the five phase spiral model as an explanation of the changes in the Chinese government's human rights practices from the time of the "anti-rightist" campaign in 1957-58 to the end of 2003. Thomas Risse, Stephen Ropp and Kathryn Sikkink's spiral model focuses on the constitutive relationship between a target state and international human rights norms by exploring the influence of a transnational network promoting these norms on the human rights practices of the target state.

The thesis concludes that the spiral model has provided a valid explanation for many of the changes in the Chinese government's human rights practices, and its responses to its internal and external critics, from 1957 to 2003. Many of the responses of the transnational human rights network and the Chinese government by the end of this period indicate that the latter had progressed to phase three of the model. Some aspects of the Chinese government's practices and relationships with its more powerful state critics can be better explained by the alternative explanations examined here, neorealism and modernisation theories. However, constructivist approaches, and in particular the spiral model, are more effective in explaining the developing pattern of communication about the validity of human rights norms. This thesis also concludes that the spiral model only conceptualises part of the constitutive relationship between the target state and international human rights norms – the influence of these norms on the identities, interests and behaviours of a target state. It does not conceptualise the influence of a target state on international human rights norms or the transnational human rights network. Therefore, the spiral model cannot explain why the Chinese government has had such a significant influence over the enforcement mechanisms of these norms. An explanation for this is found instead by combining elements of neorealism and constructivism.

## **Acknowledgements**

As I sit here looking out of the window on a chilly autumn day in Canterbury, UK, I reflect back to the heat of a summer day in Perth, Western Australia, where I began this thesis. It reminds me of how far away that beginning seems, and how far the whole process of this study has taken me, not only in miles but also hopefully in academic development. I am deeply indebted to some pretty special people on both sides of the globe to be now at this point.

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## **Abbreviations**

AI	Amnesty International
CCP	Chinese Communist Party
CDP	China Democracy Party
CFF	Concessional Finance Facility
CSHRS	China Society for Human Rights Studies
DFAT	Department of Foreign Affairs and Trade
EC	European Community
EU	European Union
FDC	Federation for a Democratic China
HRIC	Human Rights in China
HRW	Human Rights Watch/Asia
IAEA	International Atomic Energy Authority
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICFTU	International Confederation of Free Trade Unions
ICJ	International Commission of Jurists
ICRC	International Committee of the Red Cross
ILHR	International League for Human Rights
ILO	International Labour Organisation
IOC	International Olympic Committee
IPU	Interparliamentary Union

ITWF	International Transport Workers' Federation
KMT	Kuomintang
LNG	Liquified natural gas
MFN	Most Favoured Nation
NGO	Non-government organisation
NPC	National People's Congress
PRC	People's Republic of China
RSF	Reporters Sans Frontières
TCP	Technical Cooperation Programme
UNCAT	United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNCHR	United Nations Commission on Human Rights
UDHR	Universal Declaration of Human Rights
UNGA	United Nations General Assembly
WPA	World Psychiatric Association
WTO	World Trade Organisation



## Chapter One - Introduction

### The Research Question

Throughout the time of Chinese Communist Party (CCP) rule in China since 1949 there have been reports of government campaigns that have resulted in widespread human rights abuses in China including arbitrary detentions, the use of torture and executions. Some of the more high-profile campaigns include the “anti-rightist” campaign from 1957 to 1958, the Great Leap Forward in 1958, the Cultural Revolution from 1966 to 1976, the repression of those involved in the Democracy Wall movement in 1978, and the Tiananmen Square massacre in 1989. It was not until this last example of repression, however, that any significant degree of international attention was given to reports of abuses in China.

Early in the morning of 4 June 1989, Chinese troops fired into Tiananmen Square in a last desperate attempt by the Chinese government to clear the square and deter the return of the thousands of Chinese citizens that had visited there to protest against their government since April. Many were killed in Beijing that morning and over the following weeks in what became known as the Tiananmen Square massacre<sup>1</sup>, and others were later detained, tortured and in some cases executed for their involvement in the demonstrations. The presence of a large contingent of international media in Beijing since President Gorbachev’s visit in May meant that millions of people around the world were aware of the Chinese government’s violent response to the demonstrators. This precipitated an unprecedented international response to reports of human rights abuses in China. International human rights non-government organisations (NGOs), in conjunction with Chinese human rights activists and groups, continued to internationally disseminate reports of arrests, detentions, the use of torture and executions in China for those who were perceived to oppose the government from 1989 onwards. This thesis examines the responses of democratic

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<sup>1</sup> Despite these killings occurring in the streets of Beijing outside Tiananmen Square as well as in the Square itself, the killings became known as the Tiananmen Square massacre.

states and UN human rights bodies, as well as the activities of these international and domestic human rights groups, to reports of human rights abuses in China since the time of the first campaign resulting in widespread abuses, the “anti-rightist” campaign of 1957-58, to 2003. This thesis also explores the reactions of the Chinese government to these internal and external responses, in order to ascertain whether these groups have had any impact on human rights practices in China over this time period.

In particular, this thesis will test Thomas Risse, Stephen Ropp and Kathryn Sikkink’s five phase spiral model in order to assess whether it is a useful explanation of the changes in human rights practices of the Chinese government from 1957 to 2003. The spiral model seeks to explain the phases a state may progress through as it brings about domestic human rights improvements in response to pressures from a network of domestic and international actors.

The spiral model adopts a constructivist approach and thus assumes intersubjective ideas as well as material factors have a significant influence on human interaction. Constructivists are concerned with the social construction of such intersubjective ideas or structures. In international relations this includes a focus on the social construction of a state’s identities and interests and their mutually constitutive relationship with international norms, those ‘collective understandings that make behavioural claims on actors’.<sup>2</sup> Consistent with this, the spiral model examines the constitutive relationship between international human rights norms and a state’s identities and interests.

Each phase of the spiral model highlights how a network of domestic and international human rights NGOs, UN bodies and states promoting international human rights norms may be able to influence a target state’s identity, interests and behaviours through particular socialisation processes. A state’s identity is how it defines itself compared with other states, and this definition subsequently provides ‘guidance for

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<sup>2</sup> Jeffrey T. Checkel, “The Constructivist Turn in International Relations Theory,” *World Politics* 50 (1998), p. 327.

how [the state] should behave in a given context.’<sup>3</sup> The socialisation processes a target state may experience are explanations of how actors ‘understand, process, interpret and act upon lessons that are “taught” by particular agents.’<sup>4</sup> Experiencing these socialisation processes can bring about changes to a target state’s identity, interests and behaviours such that these reflect the norms promoted by the transnational network. Thus the spiral model focuses on how international human rights norms as ideas can influence a state’s identity, interests and practices via particular socialisation processes.

The domestic and international actors promoting these norms are described by Risse et al. as a transnational human rights network. Such a network is issue-specific and comprised of a diverse range of actors that share common values and a common identity, share resources and exchange information. The range of actors may include non-state entities such as domestic and international NGOs, church groups, private institutions and UN bodies, as well as state actors and their government agencies. The network’s actors are primarily motivated by their shared values rather than by material interests. A transnational network carries out its activities at the international and domestic level.<sup>5</sup> The transnational human rights network focused on in this thesis includes international human rights NGOs, private foundations, Chinese human rights and other opposition activists and groups, UN human rights bodies, as well as democratic states and their government agencies. Their involvement in the network is motivated by their concern for those suffering from human rights abuses within China, and their activities serve to promote international human rights norms to the Chinese government. Examples of activities of the transnational human rights network at the

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<sup>3</sup> Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, New Jersey: Princeton University Press, 2001), p. 13.

<sup>4</sup> Alastair Iain Johnston, "Treating International Institutions as Social Environments," *International Studies Quarterly* 45 (2001), p. 492.

<sup>5</sup> Susan D. Burgerman, "Mobilising Principles: The Role of Transnational Activists in Promoting Human Rights Principles," *Human Rights Quarterly* 20 (1998), pp. 907-8. Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 17-18. See also Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998).

international level include disseminating reports on human rights abuses in China through the international media and publications, and the lobbying of UN bodies and states. Domestic examples include the protests of Chinese human rights activists and NGOs as well as the support provided to these domestic actors by international actors of the transnational human rights network.

In order to be able to assess the impacts of a transnational human rights network on a target state, Risse et al. limited the particular human rights to be explored in their research to two core rights – the right to life, or freedom from extrajudicial execution and disappearance, and the right to have freedom from torture, arbitrary arrest and detention. These rights have been largely accepted as universal<sup>6</sup> and a focus on such a narrow set of rights avoids the difficulties that would be involved in assessing the impacts of a transnational network on a target state in relation to the entire set of international human rights. Therefore, this thesis will also focus on these two core rights.

In their research, Risse et al. focused on eleven target states - Indonesia, South Africa, the Philippines, Uganda, Guatemala, Poland, Czechoslovakia, Chile, Kenya, Tunisia and Morocco. The Chinese government was not one of the subjects of their research, and none of the chosen target states were as significant an international actor as China. By the late 1980s China had progressed along its modernisation programme such that it was considered to be an important trading partner by many other states. With China's continued economic growth throughout the 1990s and into the new millennium, its stature as a trading partner also continued to grow. In addition, China has been a permanent member of the UN Security Council since 1971, meaning that its support for various security initiatives has often been sought by other permanent members. Therefore, the Chinese government was chosen as the object of this research because its relative power in the international community of states has far exceeded that of the states focused on by Risse et al. As acknowledged by Risse et al., target states that are

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<sup>6</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 2.

significantly resistant to international pressures may not progress through the spiral model.<sup>7</sup> Factors that could facilitate this resistance include a target state's strong trade relationships with other states and its permanent membership of the UN Security Council. By using the Chinese government as a test case, this thesis will thus explore to what extent transnational human rights networks have the ability to influence the identity, interests and practices of a target state with an international stature more capable of resisting international pressures than those discussed by Risse et al.

Consistent with the constructivist approach taken by Risse et al., this thesis will also explore the constitutive relationship between the Chinese government and international human rights norms. Therefore, not only will the influence of international human rights norms on the identity, interests and practices of the Chinese government be examined, but the influence of the Chinese government on these norms and the transnational human rights network's identity, interests and practices will also be considered.

### **The Objectives of the Thesis**

This thesis will contribute to the literature on the impact of ideas and norms in international relations, in particular to the ongoing discussion on the influence of norms on state identities, interests and behaviours.

Rejecting realist explanations of state behaviour rooted solely in responses to the distribution of power in the international system of states, and liberal explanations that consider norms to be coordinators of behaviour through their definitions of behaviour standards<sup>8</sup>, social constructivists argue that norms can influence a state's behaviour

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<sup>7</sup> Ibid. p. 34.

<sup>8</sup> Peter J. Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan* (New York: Cornell University Press, 1996), p. 18.

through their impact on that state's identity and interests.<sup>9</sup> Social constructivists do not deny the impact material factors can have on state behaviour, but argue that ideational as well as material factors can have a major influence over human interactions. Therefore, they consider that state identities and interests cannot be fully explained by reference to material factors alone, and the social construction of these identities and interests need to be explored. In particular, intersubjective ideas are considered to have the most influence over human interactions.<sup>10</sup> In addition, social constructivists argue there is a constitutive relationship between actors and intersubjective ideas which means that the identity and interests of a state are both influenced by as well as have an influence over the nature of these intersubjective ideas. This constitutive relationship provides restrictions on that state's behaviour.<sup>11</sup>

Using this approach, various writers have examined the conditions under which a transnational network of actors promoting particular norms has been effective in changing the identities, interests and practices of a target state.<sup>12</sup> These studies have contributed to the study of international relations a deeper understanding of the factors involved in bringing about changes in state policies and behaviours. However, the causal mechanisms through which norms do influence state identities, interests and

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<sup>9</sup> Such social constructivists include Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996); Martha Finnemore and Kathryn Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," *Annual Reviews of Political Science* 4 (2001), 391-416; Ted Hopf, "The Promise of Constructivism in International Relations Theory," *International Security* 23, no. 1 (1998), 171-200; Katzenstein, *Cultural Norms and National Security: Police and Military in Postwar Japan*; Audie Klotz, *Norms in International Relations: The Struggle against Apartheid* (Ithaca: Cornell University, 1995); Friedrich V. Kratochwil, "Constructivism as an Approach to Interdisciplinary Study," in *Constructing International Relations: The Next Generation*, ed. Karin M. Fierke and Knud Erik Jorgensen (New York: M.E. Sharpe, 2001), 13-35; and John Gerard Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," *International Organization* 52, no. 4 (1998), 855-85.

<sup>10</sup> Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 393.

<sup>11</sup> Maja Zehfuss, "Constructivisms in International Relations: Wendt, Onuf and Kratochwil," in *Constructing International Relations: The Next Generation*, ed. Karin M. Fierke and Knud Erik Jorgensen (New York: M.E. Sharpe, 2001), p. 177.

<sup>12</sup> These include Burgerman, "Mobilising Principles: The Role of Transnational Activists in Promoting Human Rights Principles"; Finnemore *National Interests in International Society*; Klotz, *Norms in International Relations: The Struggle against Apartheid*; Thomas Risse-Kappen, "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War," *International Organization* 48, no. 2 (1994), 185-214, Thomas Risse-Kappen, ed., *Bringing Transnational Relations*

behaviours have generally been under-specified.<sup>13</sup> The part of the constitutive relationship between norms and actors that highlights the impact of actors on norms has also suffered from a lack of focus. This has weakened the theorising component of social constructivist studies. What has been needed is a more substantial theory of how international norms penetrate states, including the study of a wider range of states so that cases where international norms have influenced states can be compared with cases where they have not.<sup>14</sup>

Risse et al.'s study has attempted to meet these theoretical challenges by including a wide range of states as case studies and having phases in the spiral model that specify the nature of the impact of international human rights norms on a state, given particular actions of the transnational human rights network. By testing the spiral model in the case of China, a significant international power with military and economic might far greater than any of Risse et al.'s cases, this thesis seeks to further the understanding of the impact of human rights norms. Alan Wachman's study of the spiral model and China concluded that attempts by China's external critics to shame it into improving its human rights practices had not worked.<sup>15</sup> However, he attempted to assess the impact of shaming in isolation from other socialisation processes, effectively discounting the importance of the others. In contrast to Wachman, this thesis will consider the broader range of socialisation processes examined by Risse et al., not just shaming, in an effort to provide a more comprehensive exploration of the spiral model in relation to the Chinese government. In addition, this thesis will contribute to the social constructivist literature an aspect of the constitutive relationship between norms and states that has been largely neglected by other studies, including Risse et al.'s – the influence of the target state itself on international norms.

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*Back In: Non-State Actors, Domestic Structures and International Institutions* (Cambridge: Cambridge University Press, 1995).

<sup>13</sup> Checkel, "The Constructivist Turn in International Relations Theory," p. 335. Johnston, "Treating International Institutions as Social Environments," p.492. Albert S. Yee, "The Causal Effects of Ideas on Policies," *International Organization* 50, no. 1 (1996), pp. 102-3.

<sup>14</sup> Checkel, "The Constructivist Turn in International Relations Theory," pp. 325, 335, 339-43.

<sup>15</sup> Alan Wachman, "Does the Diplomacy of Shame Promote Human Rights in China?" *Third World Quarterly* 22, no. 2 (2001), p. 262.

Though not directly assessing the spiral model, other studies have also focused on the socialisation of the Chinese government according to international human rights norms. In doing so, these studies have discussed the responses of other states, human rights NGOs, private foundations and UN bodies to reports of human rights abuses in China, and the engagement of the Chinese government with these actors. Rosemary Foot, Ann Kent and Ming Wan have provided particularly comprehensive analyses.

While not comprehensively assessing the spiral model as a framework, Foot did acknowledge its approach and discussed the 'process of enmeshment' of China into the international human rights regime. Her study concluded that the Chinese government had become 'caught up in the rhetoric' of international human rights norms and acknowledged China's ability to influence the enforcement mechanisms of international human rights norms.<sup>16</sup> In the language of the spiral model, Foot considered that the Chinese government was between phases three and four by 2000.<sup>17</sup> In her study of the Chinese government's involvement with UN human rights bodies, Kent also concluded that China had become somewhat socialised according to international human rights norms while also attempting to influence the operations of these UN bodies.<sup>18</sup> Ming Wan concluded that realism could account better for the Chinese government's responses to the pressures placed on it by external actors than constructivist and institutionalist approaches. This was because the government's responses to these pressures indicated adaptive rather than cognitive learning about the importance of human rights, primarily reflecting its understanding that Western governments had the power 'to back [their] moral claims'.<sup>19</sup>

This thesis will expand on the studies of Foot, Kent and Ming Wan by focusing more explicitly on the spiral model and its socialisation processes, as well as comparing this

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<sup>16</sup> Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), pp. 270-72.

<sup>17</sup> As the discussion of the spiral model by Risse et al. was published just prior to Foot's 2000 book, the model was only briefly discussed by Foot *Ibid.*, p. 276.

<sup>18</sup> Ann Kent, *China, the United Nations and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press 1999) p 242.

<sup>19</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001), pp. 2, 13.



account of the changes in the Chinese government's human rights practices with alternative explanations including neorealism and modernisation theories. In addition, this thesis will include a discussion of the activities of the transnational human rights network and the Chinese government after the time of the publication of the studies of Foot, Kent and Ming Wan, from 2001 to 2003.

This thesis will also contribute to the literature on the responses of internal and external actors to China's human rights practices. Many have particularly documented accounts of human rights abuses and practices in China at the time of the Tiananmen Square massacre in June 1989 and its immediate aftermath.<sup>20</sup> Others have explored the responses of particular democratic states to reports of human rights abuses in China.<sup>21</sup> Most of these studies were completed by 2000, therefore, by including a

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<sup>20</sup> Robert Benewick, "The Tiananmen Crackdown and Its Legacy," in *China in the 1990s*, ed. Robert Benewick and Paul Wingrove (London: MacMillan Press, 1999), 5-20. Anita Chan, "The Social Origins and Consequences of the Tiananmen Crisis," in *China in the Nineties: Crisis Management and Beyond*, ed. David S. G. Goodman and George Segal (New York: Oxford University Press, 1991), 105-30. Samuel S. Kim, "Thinking Globally in Post-Mao China," *Journal of Peace Research* 27, no. 2 (1990), 191-209. Catarina Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China* (Lund: Lund Political Studies, 1995). Kim Richard Nossal, *The Beijing Massacre: Australian Responses* (Canberra: Australian National University, 1993). Harrison E. Salisbury, *The New Emperors* (London: Harper Collins, 1992). Lawrence R. Sullivan, "The Chinese Communist Party and the Beijing Massacre: The Crisis in Authority," in *China in the Nineties: Crisis Management and Beyond*, ed. David S. G. Goodman and George Segal (New York: Oxford University Press, 1991), 87-104. Anne F. Thurston "Memory and Mourning: China Ten Years after Tiananmen," *SAIS Review* XIX, no. 2 (1999), 61-79. Andrew G. Walder, "Workers, Managers, and the State: The Reform Era and the Political Crisis of 1989," in *The Individual and the State in China*, ed. Brian Hook (Oxford: Clarendon Press, 1996), 43-69. Zhang Liang, Andrew J. Nathan, and Perry Link, *The Tiananmen Papers* (London: Abacus, 2001).

<sup>21</sup> Foot, Kent and Ming Wan have provided comprehensive studies of the responses of a range of external actors while others have focused on particular state actors. Those who have discussed the responses of the US government to human rights practices in China include Harry Harding, *A Fragile Relationship: The United States and China since 1972* (Washington DC: Brookings Institution, 1992); Harry Harding, "Promoting Human Rights in Asia: American and Australian Approaches," in *Negotiating the Pacific Century: The 'New' Asia, the United States and Australia*, ed. Roger Bell, Tim McDonald, and Alan Tidwell (St Leonards: Allen and Unwin, 1996), 268-94; Ann Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," *Human Rights Quarterly* 23, no. 3 (2001), 583-624; David Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000* (Los Angeles: University of California Press, 2001); Ming Zhang and Ronald N. Montaperto, *A Triad of Another Kind: The United States, China, and Japan* (London: MacMillan Press, 1999); and Patrick Tyler, *A Great Wall: An Investigative History Six Presidents and China* (New York: PublicAffairs, 1999). Those focused on the responses of the Japanese government include K.V. Kesavan, "Japan and the Tiananmen Square Incident: Aspects of the Bilateral Relationship," *Asian Survey* 30, no. 7 (1990), 669-81; and Ming Zhang and Montaperto, *A Triad of Another Kind: The United States, China, and Japan*. Australian responses were explored in David Dutton, "Human Rights Diplomacy," in *Facing North - a Century of Australian Engagement with Asia*

discussion of the period from 2001 to 2003, a more recent exploration of the responses of internal and external actors to reports of human rights abuses in China will be provided.

In order to assess whether the spiral model is a useful explanation of the Chinese government's human rights practices from 1957 to 2003, the process tracing method has been used in this research. This method seeks to establish whether there is a causal relationship between independent and dependent variables based on a selection of cases where it appears that such a relationship is likely, and the processes through which such causality is established.<sup>22</sup> To establish whether there is a causal link between the transnational human rights network's promotion of international human rights norms and the Chinese government's human rights practices, evidence of the rhetoric and behaviours of network actors and the Chinese government was collected. Such evidence included documented sources such as government reports and statements, diplomatic records, media and NGO reports, and authoritative sources in the literature, as well as interviews with a range of Australian government officials, a number of Chinese officials and various NGO activists in Australia, Hong Kong and the UK. From this evidence, indications that international human rights norms had

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*Volume 2: 1970s-2000*, ed. Peter Edwards and David Goldsworthy (Melbourne: Melbourne University Press, 2003), 126-64; Ann Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," in *Seeking Asian Engagement: Australia in World Affairs, 1991-95*, ed. James Cotton and John Ravenhill (Melbourne: Oxford University Press, 1997), 170-90; Ann Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue," *China Rights Forum*, no. Fall (1999), 30-46; Ann Kent, "Human Rights in Australia-China Relations, 1985-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), 57-68; Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001"; Colin Mackerras, "Australia and China," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: Macmillan Education Australia, 1997), 208-28; Colin Mackerras, "Australia-China Relations as the End of the Twentieth Century," *Australian Journal of International Affairs* 54, no. 2 (2000), 185-200; Nossal, *The Beijing Massacre: Australian Responses*; Ian Russell, "Australia's Human Rights Policy: From Evatt to Evans," in *Australia's Human Rights Diplomacy*, ed. Ian Russell, Peter Van Ness, and Beng-Huat Chua (Canberra: Australian National University, 1992), 3-48; Chris Sidoti, "Human Rights in China," *Reform*, (Summer 1993), 21-25; and Peter Van Ness, "Australia's Human Rights Delegation to China 1991: A Case Study," in *Australia's Human Rights Diplomacy*, ed. Ian Russell, Peter Van Ness, and Beng-Huat Chua (Canberra: Australian National University, 1992), 49-86. Some of the European states' responses were explored in David Gillies, *Between Principle and Practice: Human Rights in North-South Relations* (Montreal: McGill-Queens University Press, 1996).

influenced the Chinese government's human rights practices and diplomacy were sought. These included increases in government statements and reports that discuss and debate international human rights norms, increases in diplomatic activity concerning human rights, and any improvements in the degree of and numbers of incidences of human rights abuses. To move beyond conclusions based on correlations, causality was then explored by assessing whether the substance of these indications reflected that international human rights norms had been instrumental in bringing them about.<sup>23</sup>

Due to the difficulties involved with gathering evidence such as interviews with senior Chinese government officials that clearly shows the motives of the Chinese government for the actions taken by the government, it is difficult to establish a definitive causal relationship between the transnational human rights network's promotion of international human rights norms and the Chinese government's human rights practices. However, the timing of many Chinese government actions regarding human rights issues and the content of some of its statements were taken to suggest that these were in response to pressures from various transnational network actors. In order to further explore and evaluate this causal relationship, alternative explanations to the influence of norms, from neorealist and modernisation theories, were considered.

### Overview of the Thesis

This thesis begins with a discussion of each of the five phases of the spiral model in Chapter Two, including the model's constructivist assumption that ideational as well as material factors can influence the human rights practices of target states. The spiral

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<sup>22</sup> Thomas Homer-Dixon, *Strategies for Studying Causation in Complex Ecological Political Systems* (June 1995 [cited 27 September 2004]); available from <http://www.library.utoronto.ca/pcs/eps/method/methods1.htm>.

<sup>23</sup> The employment of process tracing in this research follows its use by Thomas. See his discussion of this method in Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism*, pp. 18-19.

model expects that a target state's identity, interests and behaviours will become increasingly influenced by international human rights norms as it progresses through the model's phases. Instrumental adaptation, argumentative discourses, and internalisation and habitualisation are the socialisation processes that underpin the influence of international human rights norms on a target state. Chapter Two explores the nature of these processes, and the phases in which each is expected to dominate.

This chapter also critiques the spiral model's incomplete constructivist approach, highlighting in particular that the spiral model only illuminates one part of the constitutive relationship between a target state and international human rights norms. The model emphasises the potential influence of international human rights norms on a target state's identity, interests and behaviours, but not any influence the target state may have on international human rights norms. The latter part of the constitutive relationship is important to consider in the case of the Chinese government as it has a far greater degree of power and influence in the international system of states than the cases examined by Risse et al. Therefore, the Chinese government has the potential to influence international human rights norms and the way they are enforced. Finally, Chapter Two introduces a number of alternative explanations to the spiral model, neorealism and modernisation theories. These are further explored later in the thesis to ascertain whether they provide a better explanation of changes to the Chinese government's human rights practices than the spiral model.

The activities of the transnational human rights network and the Chinese government from the time of the "anti-rightist" campaign in 1957-58 to the end of 2003 share many of the characteristics of the first three phases of the spiral model. Chapters Three to Six detail the activities and responses of the transnational network actors and the Chinese government throughout this period, and discuss the socialisation processes the Chinese government was experiencing in each phase.

Phase one of the spiral model, repression and network activation, is discussed in Chapter Three covering the period from 1957 to 1989. This chapter examines China

under CCP rule since 1949, including the government campaigns that led to widespread abuses. The commencement of the Chinese government's modernisation programme in 1978, and its growing engagement with the international human rights regime, are examined in order to set the scene for the responses of the Chinese government to the greater degree of international attention its human rights practices received in the aftermath of the Tiananmen Square massacre in 1989. The reactions of the international actors of the transnational human rights network are explored in Chapter Three to highlight the lack of attention to reports of human rights abuses in China prior to the massacre. The demonstrations in China in Spring 1989 and the Chinese government's brutal response are also detailed in this chapter as they were pivotal events in that they were followed by an unprecedented international response.

The Chinese government's denial phase, beginning in the aftermath of the massacre in June 1989 and ending with the commencement of significant concessions being offered by the government in early 1991, is explored in Chapter Four. The responses of international human rights NGOs, domestic opposition groups, democratic states and UN human rights bodies to the massacre are detailed in this chapter. This includes a discussion of the dilemmas faced by many democratic states that were experiencing growing trade relationships with China, and the resulting tension between the identities of these states as promoters of international human rights norms and their national interests that were prioritising economic performance.

Chapter Four also discusses the Chinese government's responses to its international and domestic critics in the aftermath of the massacre, and compares these with the responses expected of a target state in phase two of the spiral model. In this phase it is expected that the target state will begin to engage with the instrumental adaptation socialisation process. Chapter Four highlights that the Chinese government differs from Risse et al.'s cases in that the government not only practiced instrumental adaptation but also engaged in argumentative discourses in its denial phase. In addition, this chapter explores that the Chinese government contrasted with the other cases by beginning to show its ability to influence some of the enforcement

mechanisms of international human rights norms in its denial phase. This highlights the part of the constitutive relationship between a target state and international human rights norms not focused on by the spiral model.

The first part of the Chinese government's tactical concessions phase is discussed in Chapter Five, covering the period from 1991 to the time when many democratic states began to waver in their support for multilateral actions targeting China in 1997. The activities and responses of international human rights NGOs, domestic opposition groups, democratic states and UN human rights bodies to reports of continued human rights abuses in China are documented in this chapter. The support of many democratic states for resolutions on China at the UNCHR is particularly highlighted, as well as the Chinese government's consistent lobbying opposed to the resolutions that resulted in a dramatically decreased level of support for the resolutions by 1997.

The various tactical concessions offered by the Chinese government throughout the 1991 to 1997 period are also discussed in Chapter Five. Concessions included the release of small numbers of political and religious prisoners. These concessions were indicative that the Chinese government was practising the instrumental adaptation socialisation process as they were clearly attempts to silence its international critics rather than meaningful attempts to improve its human rights practices. Other concessions indicated the Chinese government was also engaging in argumentative discourses, including the promotion of its preferred understandings of international human rights norms through the publication of White Papers, thus arguing with China's critics over the substance of their criticisms.

The 1997 to 2003 period of the Chinese government's tactical concessions phase is covered in Chapter Six, and highlights that the government continued to be in this phase by the end of 2003. The activities and responses of international human rights NGOs, domestic opposition groups, democratic states and UN human rights bodies throughout this period are detailed in this chapter. This includes discussion on the decisions by most democratic states to cease their support for the annual resolutions on

China at the UNCHR by 1998, and agreeing instead adopt to the Chinese government-favoured bilateral human rights dialogue approach.

Chapter Six also outlines that the Chinese government continued to make tactical concessions throughout the 1997 to 2003 period, indicating it was engaging in both instrumental adaptation and argumentative discourses. However, it was still not evident that argumentative discourses were becoming increasingly dominant throughout the 1997 to 2003 period, as expected by the spiral model when a target state is nearing its transition to phase four. The chapter reflects on this by discussing the continuing dominance of the Chinese government's great power identity by the end of 2003, and its role in explaining the motivation of the government's attempts to influence understandings of international human rights norms and their enforcement mechanisms.

Whether the alternative explanations to the spiral model of neorealism and modernisation theories can promote our understandings of the Chinese government's changed human rights practices, particularly from the time of greater international attention to human rights in China in 1989 to 2003, are explored in Chapter Seven. The chapter highlights the contribution of neorealism to explaining the Chinese government's impact on the enforcement mechanisms of international human rights norms. This is done through a discussion on how the relative power of the Chinese government has allowed it to influence the way that many democratic states began to raise concerns for human rights in China from 1997. However, the chapter also argues that a combination of neorealism and constructivism may provide a more complete explanation of this impact through an incorporation of both power and identity considerations.

Modernisation theory claiming that the decisive link between economic development and democratisation is the increased political participation of the middle class is also explored as an alternative explanation to the spiral model in Chapter Seven. There are also indirect ways in which China's modernisation programme may have had an

impact on the Chinese government's human rights practices. These include the increased numbers of university-educated Chinese resulting from the modernisation programme, and China's increasing participation in the global economy. In addition, Chapter Seven explores a number of developments that have resulted from the modernisation programme that may yet lead to a democratisation process.

Chapter Eight concludes this thesis by highlighting that the pressures placed on the Chinese government by the transnational human rights network meant that by the end of 2003 the government had been socialised to some extent according to international human rights norms. However, the Chinese government's dominant great power identity continued to limit the degree to which its interests and behaviours reflected these norms. In addition, by adding certain aspects of neorealist and modernisation theory explanations to the spiral model, a more complete understanding of the changes to the Chinese government's human rights practices is gained. This provides a solid foundation from which implications and recommendations for actors of the transnational human rights network can be explored.



## Chapter Two - The Five Phase Spiral Model

### Introduction

This chapter will discuss the five phase spiral model which this thesis will test through its adoption as the framework for exploring the influence of an international human rights network on the human rights practices of the Chinese government. This thesis will assess whether the spiral model helps us to understand the changes in the Chinese government's human rights practices since the time of greater international attention on human rights in China in 1989 to 2003. The characteristics of each of the model's phases will be explored in this chapter. A critique of the spiral model will follow the explanation of its phases, including discussions on its focus on two core rights and their applicability to China, and the model's basis in constructivism. Other competing explanations of changes in state human rights practices will also be explored here. These include neorealist theory that emphasises that a state's actions will reflect the influence of the economic and military might of great powers, and modernisation theories that consider there is a correlation between economic development and democratisation, the latter assumed to be accompanied by improvements in a state's human rights policy.

Through their examination of the role of international human rights norms in bringing about improvements in the human rights practices of particular states, Risse, Ropp and Sikkink have proposed a five phase spiral model.<sup>1</sup> This model seeks to explain the phases that a state may progress through as it improves its human rights practices. In each of these phases the model highlights how a network of domestic and international human rights NGOs, UN bodies and states promoting international human rights norms can influence the human rights practices of a target state. Therefore, the spiral model highlights how ideational factors can influence state practices. Risse et al.'s research focused on the human rights practices of eleven states over varying time

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<sup>1</sup> Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink, eds, *The Power of Human Rights: International Norms and Domestic Change* (Cambridge: Cambridge University Press, 1999).

periods from the early 1960s to the late 1990s. These states are diverse in their regional locations and cultures, lending some validity to the findings of this research.<sup>2</sup> However, none of these states are significant powers in the international system. China was not included in this study and is a much more significant state actor in the world than the states included in Risse et al.'s research. China currently has a population of 1.3 billion, is a permanent member of the UN Security Council, and some believe that the size of its economy will surpass that of the US by 2020.<sup>3</sup> China is considered by many democratic states to be an important trade and strategic partner. The usefulness of the five phase spiral model to explain the changes in human rights practices of a state such as China is the central issue in the testing of this model.

### **Constructivism and the Spiral Model**

The authors situate their study within the realm of constructivism which stresses 'the impact of ideas and norms in international politics'.<sup>4</sup> The constructivist approach developed in international relations in reaction to theories such as realism that take the human world as given and deny the role of ideas in the construction of that world. The approach provides an alternative form of understanding the actors in international relations, and their behaviours, and goes beyond an acceptance of the world as unambiguously presented to the senses to highlight and embrace its possibilities for change. There are a wide variety of constructivist forms but the underlying assumptions of the approach include that ideational factors as well as material factors

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<sup>2</sup> The states the authors focused on are Kenya, Uganda, South Africa, Tunisia, Morocco, Indonesia, the Philippines, Chile, Guatemala, Poland and Czechoslovakia.

<sup>3</sup> Some economists have predicted that China's economy will be larger than the United States' by 2020 if the late 1990s rate of economic reform is sustained. From Funabashi, Yoichi, Michel Okesneberg and Heinrich Weiss, 1994, *The Emerging China in a World of Interdependence: A Report to the Trilateral Commission*, New York: The Trilateral Commission; cited in Michael Cox, "New China: New Cold War?" in *Statecraft and Security: The Cold War and Beyond*, ed. Ken Booth (Cambridge: Cambridge University Press, 1998) p. 230.

<sup>4</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 6.

have a major influence on human interaction.<sup>5</sup> Therefore any research on international reality needs to consider both ideational and material factors in order to more fully appreciate the nature of that reality, and why and how it may change.<sup>6</sup> In order to consider ideational factors, which are not open to direct sense perception, a different type of methodology is required than that used to explore material factors.

The constructivist approach also assumes that intersubjective ideas, those ideas that are shared by individuals, have a significant influence over human interaction. Intersubjective ideas, such as state sovereignty and human rights, do not have a material form and so they only exist because individuals believe they do.<sup>7</sup> In other words, constructivists believe that the 'human world' is not merely given but is constructed by humans.<sup>8</sup> In international relations the approach aims 'to problematise the identities and interests of states and to show how they have been socially constructed'.<sup>9</sup> Therefore a constructivist would argue that state identities and interests

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<sup>5</sup> Martha Finnemore and Kathryn Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," *Annual Reviews of Political Science* 4 (2001), p. 393. There is much debate amongst constructivists as to what should be the focus of this approach, the appropriate methods of research and how constructivist approaches should be differentiated. These debates lie outside the scope of this thesis and further discussion can be found in Emanuel Adler, "Seizing the Middle Ground: Constructivism in World Politics," *European Journal of International Relations* 3, no. 3 (1997), 319-63; Ted Hopf, "The Promise of Constructivism in International Relations Theory," *International Security* 23, no. 1 (1998), 171-200; Knud Erik Jorgensen, "Four Levels and a Discipline," in *Constructing International Relations: The Next Generation*, ed. Karin M. Fierke and Knud Erik Jorgensen (New York: M.E. Sharpe, 2001), 36-53; Vendulka Kubalkova, "A Constructivist Primer," in *Foreign Policy in a Constructed World*, ed. Vendulka Kubalkova (New York: M.E. Sharpe, 2001), 56-76; Ralph Pettman, "Commonsense Constructivism and Foreign Policy: A Critique of Rule-Oriented Constructivism," in *Foreign Policy in a Constructed World*, ed. Vendulka Kubalkova (New York: M.E. Sharpe, 2001), 249-65; Richard Price and Christian Reus-Smit, "Dangerous Liaisons? Critical International Theory and Constructivism," *European Journal of International Relations* 4, no. 3 (1998), 259-94; John Gerard Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," *International Organization* 52, no. 4 (1998), 855-85; Alexander Wendt, *Social Theory of International Politics* (Cambridge: Cambridge University Press, 1999); Maja Zehfuss, "Constructivisms in International Relations: Wendt, Onuf and Kratochwil," in *Constructing International Relations: The Next Generation*, ed. Karin M. Fierke and Knud Erik Jorgensen (New York: M.E. Sharpe, 2001), 54-75.

<sup>6</sup> Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," p. 879.

<sup>7</sup> Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 393.

<sup>8</sup> Friedrich V. Kratochwil, "Constructivism as an Approach to Interdisciplinary Study," in *Constructing International Relations: The Next Generation*, ed. Karin M. Fierke and Knud Erik Jorgensen (New York: M.E. Sharpe, 2001), p. 17

<sup>9</sup> Ruggie, "What Makes the World Hang Together? Neo-Utilitarianism and the Social Constructivist Challenge," p. 879.

cannot be fully explained by reference to material factors and that their social construction needs to be explored.

Constructivists assume that intersubjective ideas, or structures, 'construct the interests and identities of purposive actors'.<sup>10</sup> Further, constructivists believe there is a constitutive relationship between actors and structures.<sup>11</sup> At this point it is necessary to highlight that the spiral model is positioned within the state-centric modernist or mainstream constructivism of international relations.<sup>12</sup> In the international realm this means that the identity and interests of a state are considered to be both influenced by the international structure and also to have an influence over the nature of that structure. Therefore, while a mainstream constructivist approach would assume states to have a 'wider array of potential choices of action' due to the influence of both ideational and material factors on international reality, 'these choices will be constrained by social structures that are mutually created by states and structures via social practices'.<sup>13</sup> In other words, a state's identity and interests are in a mutually constitutive relationship with the international structure within which it is embedded, which means that the state and the international structure constitute each other. Therefore, the constitutive nature of this relationship will necessarily provide restrictions on that state's behaviour.

The constructivist approach can be applied at 'different levels of reasoning', including the philosophical, metatheoretical, theoretical and empirical research levels.<sup>14</sup> The spiral model operates within the theoretical level in that it is focused on seeking to explain the international phenomenon of the impact of norms on states. That few constructivists have developed theories using this approach has been a concern for some scholars who call for further engagement in this area. According to Finnemore,

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<sup>10</sup> Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 393.

<sup>11</sup> Hopf, "The Promise of Constructivism in International Relations Theory," p. 172.

<sup>12</sup> Mainstream constructivism in international relations is in contrast to non-state-centric approaches such as Kratochwil and Onuf's rule-oriented constructivism. See Maja Zehfuss, "Constructivisms in International Relations: Wendt, Onuf and Kratochwil".

<sup>13</sup> Hopf, "The Promise of Constructivism in International Relations Theory," p. 177.

<sup>14</sup> Jorgensen, "Four Levels and a Discipline," p. 39.

'[s]imply claiming that "norms matter" is not enough for constructivists. They must provide substantive arguments about which norms matter as well as how, where and why they matter'.<sup>15</sup>

Prior to the spiral model, attempts to do this were provided by a number of studies that used the constructivist approach to explore the conditions under which a transnational network of actors promoting particular norms had influenced the identity, interests and behaviours of a target state. However, whilst contributing to a deeper understanding of the factors involved in bringing about improvements in the human rights practices of particular states, some of these studies under-specified the causal mechanisms involved in norms influencing state identities, interests and behaviours.<sup>16</sup> For example, Burgerman explored the role and contributions of a transnational human rights network in bringing about human rights improvements in El Salvador and Guatemala, concluding that such a network could influence a target state's behaviour if certain conditions were present.<sup>17</sup> This study provided two useful case studies highlighting the impact of a transnational human rights network on the behaviours of these states but lacked a direct illumination of the processes through which international human rights norms influenced the identities and interests of the governments of El Salvador and Guatemala. The constitutive relationship between international human rights norms and these governments was not part of the study's focus, leaving any causal relationship between these norms and the identities and interests of these governments under-explored.

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<sup>15</sup> Martha Finnemore, *National Interests in International Society* (Ithaca: Cornell University Press, 1996) p. 130.

<sup>16</sup> Jeffrey T. Checkel, "The Constructivist Turn in International Relations Theory," *World Politics* 50 (1998), p. 335. Alastair Iain Johnston, "Treating International Institutions as Social Environments," *International Studies Quarterly* 45 (2001), p.492. Albert S. Yee, "The Causal Effects of Ideas on Policies," *International Organization* 50, no. 1 (1996). pp. 102-3.

<sup>17</sup> These included that a major state must not be strongly opposed to international attempts to pressure a target state to improve its human rights practices; the target state must not be able to overwhelmingly resist the pressures of the transnational network; a significant part of the ruling elite of the target state must fear international isolation and damage to the state's international reputation; and domestic human rights activists and groups must be able to mobilise and link with an international human rights network. Burgerman qualifies this finding by asserting that more research is needed to ascertain if there other conditions that are also needed. Susan D. Burgerman, "Mobilising Principles: The Role of Transnational Activists in Promoting Human Rights Principles," *Human Rights Quarterly* 20 (1998), p. 907.

More illumination on the constitutive relationship between an international norm and target state was provided by Klotz, including a greater specification of the causal mechanisms involved in the influence of norms on state identities, interests and behaviours. Klotz explored the role of the norm of racial equality in motivating a transnational network to pressure the South African government to cease its racial segregation policies, and the abolition of apartheid some years later, concluding that the identity and interests of the South African government had been transformed by this norm.<sup>18</sup> Klotz highlighted that both rationalist and constitutive explanations were necessary to explain this transformation<sup>19</sup>, providing a constructivist theory that acknowledged the role of rationalist explanations in the transformation processes involving norms. However, despite providing an elaboration of the causal mechanisms linking the norm of racial equality and the South African government's changed policies, Klotz' study involved just one case study limiting the degree to which her findings could be generalised to other states.

Prior to Risse et al.'s study, there were few studies examining a wide range of states to allow cases where international norms promoted by transnational networks have reconstituted states' identities, interests and behaviours to be compared with cases where they have not.<sup>20</sup> Risse-Kappen's 1994 and 1995 studies provide a couple of useful exceptions, with the former study comparing and contrasting the impact of a transnational network on the identities, interests and behaviours of the Soviet Union, US and German governments, and the latter study including a wide range of different governments and transnational actors.<sup>21</sup>

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<sup>18</sup> Audie Klotz, *Norms in International Relations: The Struggle against Apartheid* (Ithaca: Cornell University, 1995).

<sup>19</sup> Klotz concluded that the role of norms in bringing about changes in state policies and practices was explained by a combination of the instrumental claim that 'norms constrain states' behaviour through reputation and group membership' and the constructivist claim that 'norms constitute states' definitions of their own identities and interests'. Ibid. p. 166.

<sup>20</sup> Checkel, "The Constructivist Turn in International Relations Theory," pp. 339-43. Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 397.

<sup>21</sup> Thomas Risse-Kappen, "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War," *International Organization* 48, no. 2 (1994), 185-214. Thomas Risse-

Other limitations of studies focusing on the influence of transnational networks on the identities, interests and behaviours of target states include a lack of focus on that part of the constitutive relationship between norms and actors that highlights the impact of actors on norms, effectively weakening the theorising component of constructivist studies.<sup>22</sup> For example, Klotz explored the impact of the racial equality norm on the identities, interests and behaviours of the transnational network actors and the South African government, but not any impact of these actors on the norm.<sup>23</sup> Risse-Kappen's 1994 study of the impact of a transnational network promoting liberal internationalist norms on the Soviet Union, US and German governments also focused on the impact of norms on actors and not on any impact these actors may have had on the norms.<sup>24</sup> In contrast, Risse-Kappen's 1995 edited volume examining a range of case studies did explore this part of the constitutive relationship and highlighted that '[p]owerful states [are] the source of many norms that transnational actors promote.'<sup>25</sup> The implications of this are that not only may Western transnational actors have been particularly effective because the norms they promote match those of powerful Western states, but that Western states may also have had their power enhanced because transnational actors have promoted their ideas.<sup>26</sup>

The spiral model is an attempt to overcome the limitations of the studies outlined above, as well as an attempt to build on their strengths. It attempts to identify how, where and why international human rights norms matter to states. In order to reflect on Risse et al.'s claims of positioning their model within the constructivist approach, and their attempts to build on the studies above, the nature of the model and each of its

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Kappen, ed., *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions* (Cambridge: Cambridge University Press, 1995).

<sup>22</sup> Checkel, "The Constructivist Turn in International Relations Theory," pp. 325, 335. Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 397.

<sup>23</sup> Checkel, "The Constructivist Turn in International Relations Theory," p. 337.

<sup>24</sup> Risse-Kappen, "Ideas Do Not Float Freely: Transnational Coalitions, Domestic Structures, and the End of the Cold War".

<sup>25</sup> Risse-Kappen, ed *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions*. pp. 287-88

<sup>26</sup> *Ibid.* p. 288.

phases will first be explained. A critique of the model, including its constructivist characteristics, will then follow.

### **The Five Phase Spiral Model**

The five phase spiral model seeks to explain the role of states and other international actors promoting international human rights norms in bringing about human rights improvements in a target state. They conclude that in order for international norms to become infused into a state's structure and practices, networks of domestic and international actors first need to join international regimes, which allows for information on human rights abuses to reach democratic states and their citizens. These are known as transnational human rights networks. These networks, including domestic and international human rights NGOs, other states and UN bodies, seek to achieve three aims in order for there to be effective domestic improvements in human rights. The first aim is to raise the moral consciousness of citizens worldwide through the international publicising of a state's human rights abuses. The second aim is to support and legitimate domestic human rights groups in opposition to the state, giving them an international voice and some protection against repression by their own states. Finally, these networks aim to achieve a transnational structure that pressures states from both the international and domestic arenas. The greater the extent and length of time of these pressures, the more likely that target states will limit and hopefully eventually cease their repressive practices.<sup>27</sup>

Despite the emphasis placed on the role of transnational human rights networks in bringing about human rights improvements in particular countries, states still have an important function within this. The state is the international actor that needs to be pressured to institutionalise the protection of human rights via the rule of law and state

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<sup>27</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 5.



practices.<sup>28</sup> At this time, it is still the most appropriate actor to bring about human rights improvements within its borders. Therefore the spiral model focuses on the impact of the transnational human rights regime on target states. In addition, democratic states whose identity is linked to a concern and respect for international human rights norms play an important role within transnational human rights networks as it is these actors that often have the diplomatic and multilateral opportunities to directly pressure a target state to improve its human rights practices.

Risse et al. have selected a particular set of human rights that have been used by transnational human rights networks in their campaigns regarding target states. These are known as two core rights - the right to life, or freedom from extrajudicial execution and disappearance, and the right to have freedom from torture, arbitrary arrest and detention. These rights have been focused on because of the difficulties involved in assessing the impacts of a transnational network on the entire set of rights as articulated in international human rights conventions and treaties. In addition, the two core rights have been accepted as universal by most states.<sup>29</sup> This reflects that norms achieving the most international acceptance tend to be those seeking to prevent the physical harming of "innocent" individuals and groups because these norms 'resonate with basic ideas of human dignity common to most cultures.'<sup>30</sup>

The spiral model includes in its phases the socialisation processes involved in bringing about human rights practice improvements in target states. These processes, that a state undergoes to internalise and adopt practices consistent with these international human rights norms, are central to understanding how NGOs, states and other

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<sup>28</sup> Thomas Risse and Stephen C. Ropp, "International Human Rights Norms and Domestic Change: Conclusions," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 277.

<sup>29</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 2.

<sup>30</sup> Martha Finnemore and Kathryn Sikkink, "International Norm Dynamics and Political Change," *International Organization* 52, no. 4 (1998), p. 907. See also Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (New York: Cornell University Press, 1998).

international bodies can influence a state's practices.<sup>31</sup> Risse et al. have highlighted three types of socialisation necessary to bring about sustained changes in human rights practices. The first type of socialisation, instrumental adaptation, refers to the initial reactions of states when they begin to be accused of abusing human rights. States may make some concessions, for example, releasing a political prisoner or indicating they may sign an international agreement. This type of socialisation does not necessarily involve the target state believing in the validity of the human rights norms that transnational actors are accusing them of violating. Instead, consistent with rationalist explanations, the target state's behaviour is more likely to be motivated by instrumental or material concerns such as bringing about the end of sanctions and public criticisms of its human rights record.<sup>32</sup>

The second type of socialisation, argumentative discourses, involves the target state and its critics engaging in discourses of argumentation and persuasion. These discourses may include either the target state or its critics challenging the validity of what is communicated by the other. For example, the target state may seek clarification of the information expressed by its critics or challenge the framing of its behaviours as human rights abuses. This indicates that both the target state and its critics may 'agree on the moral validity of the norm, but disagree whether certain behaviour is covered by it.'<sup>33</sup> The argumentative discourses socialisation process may involve arguments that reflect the identities and interests of the actors. For example, a target state's identity might reject the emphasis on individualism by international human rights norms as being morally inappropriate. Its responses to critics may then reflect this with claims that these norms are not compatible with its culture.<sup>34</sup> This socialisation process may also involve critics utilising not just logical arguments in attempts to persuade a target state to alter its identity and interests, but techniques such as shaming. This technique is designed to publicly exclude the target state from the "civilised community" of states' and thus hopefully elicit a deep feeling of offence in

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<sup>31</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 5.

<sup>32</sup> Ibid. p. 12

<sup>33</sup> Ibid. p. 13

the target state's leadership that will motivate it to change its identity and interests and improve its human rights practices.<sup>35</sup>

The third type of socialisation refers to the internalisation and habitualisation of human rights norms. This type of socialisation is a progression from the first two types. A target state may begin to change its human rights practices initially due to instrumental concerns, but with sustained pressure it may come to 'accept the validity of international human rights norms, and start engaging in an argumentative process' with its critics.<sup>36</sup> The longer a state engages in dialogue on human rights norms with transnational actors and accepts the validity of the norms, the more likely it is to begin to change domestic practices to reflect these norms. Eventually the state's behaviour may become consistent with international human rights norms because it is the "normal" way that things are done. This institutionalisation means that the compliance of state behaviour with these norms becomes independent of the beliefs of individual actors within the state about their moral validity.<sup>37</sup>

To further explore the socialisation of states according to international human rights norms, and how a state can be affected by a transnational regime, Risse et al. incorporated these socialisation types into a five phase spiral model.

#### Phase One – Repression and Network Activation

This phase applies when there is a marked deterioration in the respect for human rights by a state. If the transnational networks of domestic and international human rights NGOs can get information on human rights abuses out of the country, the state can be placed in the international spotlight and the situation can progress to phase two.<sup>38</sup>

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<sup>34</sup> Ibid. p. 13.

<sup>35</sup> Ibid. pp. 14-15.

<sup>36</sup> Ibid. p. 17.

<sup>37</sup> Ibid. p. 17.

<sup>38</sup> Ibid. p. 22.

## Phase Two - Denial

In phase two information is disseminated internationally regarding human rights abuses and the lobbying of international human rights organisations and democratic states commences. Attempts to persuade democratic states to speak publicly about the abuses in the target state are made by other transnational network actors. Uganda and Kenya are examples of states whose repressive practices were highlighted internationally via a transnational human rights network. From 1972, in the wake of Idi Amin's overthrow of the first Ugandan Prime Minister and the subsequent execution of opponents, AI, the International Commission of Jurists (ICJ) and journalists were able to disseminate internationally information on human rights abuses in Uganda. These actors particularly targeted the UN in eventually successful efforts to mobilise the actions of other states. A transnational human rights network was able to disseminate information on human rights abuses outside of Kenya from 1984, two years after President Daniel arap Moi began an era of detention without trial and torture of political opponents.<sup>39</sup> The first democratic country to be successfully mobilised by the transnational network to condemn the human rights abuses in Kenya was Norway. This state became pivotal in mobilising other states to pressure the Kenyan government to change its human rights practices.<sup>40</sup> A more recent example concerns Zimbabwe where a transnational human rights network has been successful in disseminating information on the Mugabe regime's human rights abuses. The network has also successfully lobbied democratic states, resulting in many of these publicly condemning the abuses.<sup>41</sup> Thus in the cases of Uganda, Kenya and

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<sup>39</sup> Hans Peter Schmitz, "Transnational Activism and Political Change in Kenya and Uganda," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 42-44.

<sup>40</sup> Norway's early mobilisation was because it had granted asylum to one of the first victims of the abuses, a former Kenyan Member of Parliament, and thus had an early appreciation of the abuses within Kenya. Ibid. p. 51.

<sup>41</sup> Any positive impact on the human rights practices of the Mugabe regime is yet to be seen however. See Prime Minister of Australia Media Release "Statement by Pacific Commonwealth Leaders on Zimbabwe", 16 August 2003, at [http://www.pma.gov.au/news/media\\_releases/media\\_Release432.html](http://www.pma.gov.au/news/media_releases/media_Release432.html) and BBC News World Edition, "Should Zimbabwe be readmitted to the Commonwealth?" 25 February 2003, at [http://news.bbc.co.uk/2/hi/talkug\\_point/2770921.stm](http://news.bbc.co.uk/2/hi/talkug_point/2770921.stm)

Zimbabwe the transnational human rights networks were able to persuade other states to speak out about the abuses in those countries.

Such international responses to these human rights abuses often result in a denial response from the target state. This usually amounts to statements accusing the international community of employing double standards in their criticisms, denying the allegations and/or the validity of international human rights standards, and that international jurisdiction does not extend to the target state's practices. These responses are based on the rights to self-determination and sovereignty in domestic affairs as enshrined in the UN Charter. Both the Ugandan and Kenyan states gave denial responses to international criticisms. The Amin government's response in Uganda was a denial of the allegations of abuse and an attempt to discredit AI and its sources of information.<sup>42</sup> In Kenya the arap Moi government's response to its criticisms was a denial of the torture allegations and claims that the international community should be criticising South Africa and not Kenya.<sup>43</sup>

In the denial phase the target state usually seeks to defend its legitimacy as a ruling body and aims to persuade its domestic audience that the human rights criticisms are coming from 'ignorant "foreigners"'.<sup>44</sup> Anti-colonial or imperialist language may be used and some nationalist support may result in favour of the state against the outside world in this phase. For example, President Suharto in Indonesia used anti-colonial rhetoric to discredit calls by the East Timorese human rights network for self-determination. This strategy contributed to the East Timorese network being estranged from the efforts of the other Indonesian NGOs for some time.<sup>45</sup> Despite the characteristics of this phase, denial is still considered to be part of socialisation as it reflects that at least the state acknowledges that its international reputation has been

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<sup>42</sup> Schmitz, "Transnational Activism and Political Change in Kenya and Uganda," pp. 44-45.

<sup>43</sup> Ibid. p. 52.

<sup>44</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 251.

<sup>45</sup> Anja Jetschke, "Linking the Unlinkable? International Norms and Nationalism in Indonesia and the Philippines," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 143.

tarnished, and the human rights concept is not usually rejected outright.<sup>46</sup> Thus the denial phase can be the beginning of the instrumental adaptation form of socialisation. The degree to which the target state identifies with the international community of liberal states that promote a respect for human rights would influence the vulnerability of the target state to pressures to bring about human rights improvements, and thus its progression to the next phase.<sup>47</sup>

In many of the cases examined in Risse et al.'s book, the denial stage was observed to be quite long.<sup>48</sup> South Africa, Poland and Czechoslovakia were each found to be in the denial phase for approximately fifteen years, while Indonesia was in this phase for approximately twenty years.<sup>49</sup> This may be because the transition from this phase to the next can represent a significant change in state attitude to the pressures of outside bodies. Such a change could generate much internal resistance and so much internal discussion and debate on the need to make human rights concessions would be needed.

### Phase Three – Tactical Concessions

According to Risse et al., the most difficult transition for transnational networks is getting the target state to the third phase of tactical concessions. Whether this can be achieved depends on the vulnerability of the state to international pressures and the relative strength of the transnational network. Vulnerability of the state encompasses the extent of its desire to be a member of the international society and how much it relies on economic aid and military support from other states.<sup>50</sup> If pressure by the transnational network can be maintained, the target state may feel compelled to make tactical concessions, for example, release a few political prisoners. The Philippines under Marcos rule was an example of a state that was vulnerable to international pressures. That state's reliance on military aid from the US government was a

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<sup>46</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 23.

<sup>47</sup> Ibid. p. 24.

<sup>48</sup> Ibid. p. 24.

<sup>49</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 258.

significant factor in shifting the Marcos regime from phase two to phase three. After lobbying from the transnational human rights network, in 1977 the US government reversed its previous support for the Marcos regime that had declared martial law in 1972. Tactical concessions were subsequently made by the Philippines government, including the lifting of the night curfew and the release of 500 people who had been imprisoned under martial law.<sup>51</sup> That these concessions were made also reflected the continued pressure placed on Marcos by the transnational human rights network. For example, AI and ICJ continued to document and disseminate information on human rights abuses in the Philippines.<sup>52</sup>

The primary opportunity to improve human rights in the third phase is via the encouragement of domestic opposition groups to mobilise and criticise the state in response to the transnational network's efforts. However, a state backlash against domestic opposition can emerge during this phase, and if considerable repression can be brought to bear on the leaders of such movements, then others can be deterred from supporting calls for human rights improvements. This effectively delays progress to subsequent phases of the model.<sup>53</sup> The Philippines provides an example of where a domestic opposition was able to effectively mobilise. International and domestic pressures enabled domestic groups calling for human rights improvements to grow and they were able to organise anti-martial law demonstrations and a People's Conference on Human Rights in 1977. The tactical concessions conceded by the Marcos government, including legal measures legitimising political activities concerning

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<sup>50</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 24.

<sup>51</sup> When the Reagan administration won office in the US in 1981, US support for the Marcos regime resumed as the importance of the Philippines' military bases in the Cold War once more became a prominent consideration. However, the strength of the transnational human rights network was such by this point that the Philippines' human rights abuses were able to be kept in the international spotlight. By 1983 these efforts resulted in the Reagan administration's support for positive changes in human rights practices in the Philippines. See Jetschke, "Linking the Unlinkable? International Norms and Nationalism in Indonesia and the Philippines," pp. 151-152.

<sup>52</sup> Ibid. p. 149.

<sup>53</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction".

human rights, allowed for such domestic activities to continue.<sup>54</sup> In contrast to the Philippines government's response, the strengthening opposition groups in South Africa in the 1980s were met with repressive government measures. These included media censorship and a state of emergency being declared in 1986. However, the results were to increase the international condemnation of the South African government and to intensify domestic opposition groups.<sup>55</sup>

Both the instrumental adaptation and argumentative discourses processes of socialisation are generally evident in the third phase, with the latter type becoming increasingly prevalent. In this phase, a target state usually refrains from denying the validity of human rights standards, and begins engaging with outside critics and arguing about human rights abuse cases. This was evident, for example, in the Philippines when the Marcos government began to engage with its critics and legitimise certain human rights activities. This reflects the target state's concerns that its international reputation, domestic legitimacy, or both, have been damaged and its subsequent desire to promote itself as a state that does acknowledge the universality of human rights norms.<sup>56</sup> As this process continues, target states become less likely to denounce publicly their critics and more likely 'to make argumentative concessions and to specify their justifications'.<sup>57</sup> This is when outside critics begin to take these justifications seriously and engage in a "true dialogue" with the target state, aimed at bringing about improvements in human rights practices.

The tactical concessions phase ends when a state either begins to institutionalise human rights standards into domestic practices, or increases its repressive practices which can lead to a stronger domestic opposition and decrease any international

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<sup>54</sup> Jetschke, "Linking the Unlinkable? International Norms and Nationalism in Indonesia and the Philippines," p. 150.

<sup>55</sup> David Black, "The Long and Winding Road: International Norms and Domestic Political Change in South Africa," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 94.

<sup>56</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," pp. 27-28.

<sup>57</sup> *Ibid.* p. 28.



support.<sup>58</sup> This in turn may lead to regime change.<sup>59</sup> As discussed, in South Africa the results of the state increasing its repression of domestic opposition groups was a decline in international support and an intensification of domestic opposition. This led to the democratisation of the political system and a change in government.

#### Phase Four – Prescriptive Status

Phase four of the spiral model is reached when target states use international human rights norms in human rights discussions and the validity of these norms is no longer contested. Argumentative discourse is the type of socialisation most prevalent here. However, human rights abuses may still be carried out in practice, possibly by forces outside a state's control. The validity of norms is considered to be accepted by states when international human rights conventions and their optional protocols are ratified; the constitution and domestic legislation reflect human rights norms; human rights complaints structures are set in place for citizens; criticisms of human rights are no longer labelled outside interference in domestic matters; the validity of norms is not disputed regardless of who the discussion is with; a human rights dialogue is conducted with the state's critics; apologies and compensation may be given to those whose human rights have been abused; improvements in human rights practices are made, not just human rights training provided to various officials; and human rights institutions are created.<sup>60</sup>

Seven of the states examined in Risse et al.'s book were found to have reached phase four. Poland, Czechoslovakia, South Africa, Chile, Uganda, the Philippines and Guatemala all 'experienced a subsequent, sustained, and drastic improvement of human rights conditions' in this phase.<sup>61</sup> For example, Chile ratified the UN Torture Convention in 1988 (although with reservations) and the Optional Protocol to the ICCPR in 1992, held democratic elections in 1990, ratified the American Convention

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<sup>58</sup> Ibid. p. 28.

<sup>59</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 247.

<sup>60</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 29.

of Human Rights, and recognised the jurisdiction of the Inter-American Court of Human Rights in 1990. These measures provided Chilean citizens with the right to complain to international bodies concerning their state's human rights practices. The Guatemalan state began instituting legal changes in the mid 1980s which led to the country's constitution and legislation reflecting international human rights norms. The 1985 Constitution also led to the establishment of the Human Rights Ombudsman Office which was responsible for investigating allegations of human rights abuses.<sup>62</sup> In the prescriptive status phase, after sustained international condemnation and sanctions, the South African state began a dialogue with the African National Congress that led to negotiated political systemic change. This dialogue was particularly in response to measures stipulated by the transnational human rights network as a condition for the removal of sanctions. The South African government addressed these measures in 1990-1991, thus accepting the human rights criticisms of the international community and domestic opposition groups.<sup>63</sup>

Risse et al. found that most of the states researched for their book reached prescriptive status in the period from 1985 to 1995. They described this as 'world time' phenomena, reflecting that by the late 1990s the validity of the two core rights focused on by Risse et al. were not being denied by any of the states examined.<sup>64</sup> Contributing factors to this included the growth in numbers of NGOs promoting the two core rights throughout the 1980s and 1990s, effectively strengthening transnational human rights networks and contributing to the adoption of these international human rights norms by a critical mass of states over this period.<sup>65</sup>

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<sup>61</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 248.

<sup>62</sup> Stephen C. Ropp and Kathryn Sikkink "International Norms and Domestic Politics in Chile and Guatemala," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 190-191.

<sup>63</sup> These measures included '(1) repealing the state of emergency; (2) releasing all political prisoners; (3) unbanning the ANC and other political parties; (4) eliminating apartheid laws; and (5) initiating negotiations for a new political system.' See Black, "The Long and Winding Road: International Norms and Domestic Political Change in South Africa," p. 98.

<sup>64</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 264.

<sup>65</sup> Finnemore and Sikkink, "International Norm Dynamics and Political Change," pp. 895, 899, 902.

### Phase Five – Rule-Consistent Behaviour

Over time phase five, rule-consistent behaviour, is expected to be reached if there is continued domestic and international pressure to encourage a target state to alter its human rights practices so that they reflect international human rights norms and are supported by the rule of law.<sup>66</sup> Therefore, for phase five to be reached, a state's domestic law and human rights practices must reflect the human rights norms of the international instruments it has ratified. The dominant mode of socialisation here is institutionalisation and habitualisation. This is the final mode of the socialisation processes whereby international human rights norms are no longer contested but are accepted, institutionalised within domestic practices, and supported by the rule of law.<sup>67</sup> The state's identity, interests and behaviours are thus consistent with international human rights norms. The role of domestic opposition groups in getting target states to phase five is particularly noted here. These groups need to have been able to apply pressure for phase five to be reached, in order to add to international pressures.<sup>68</sup> However, sustained international pressures are also important. If international pressure eases in response to a target state decreasing some of its human rights abuses, there is less pressure on the target state to further improve its human rights practices. This can delay or cease the potential for phase five to be reached.<sup>69</sup>

Progress to rule-consistent behaviour was found in the cases of Uganda, South Africa, Poland, Czechoslovakia, Chile, Guatemala and the Philippines. This was indicated by steady progress towards the institutionalisation of international human rights norms as evident by the achievement of processes and activities detailed in the discussion on phase four. Limitations on the potential for a state to fully progress to the spiral model's final phase include where the target state remains under dictatorship, no matter how benevolent that dictator may be. Uganda under the rule of Museveni, for example, highlights that the improved human rights practices of that country are

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<sup>66</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 31.

<sup>67</sup> Ibid. p. 33.

<sup>68</sup> Ibid. p. 34.

dependent on the continued rule of this relatively benevolent regime. Systemic changes, such as democratic institutions, that would entrench the importance of the respect for human rights in the long term are needed. Another limitation on full progress to rule-consistent behaviour concerns the activities of domestic non-state actors. The perpetration of human rights abuses by such actors can provide a state with great difficulties in its own quest to bring about human rights improvements. For example, the guerrilla organisations in the south of the Philippines continue to perpetrate violence and provide a challenge to the Philippines government to remove these human rights abuses without resorting to abuses itself. Attempts to achieve a peaceful solution have included the Ramos government's peace process with two guerrilla organisations in the late 1990s and the setting up of the National Unification Commission.<sup>70</sup>

Risse et al.'s study concluded that none of the states examined had fully attained rule-consistent behaviour. It would seem that a state does not reach phase five but must continually strive for it. Indeed, many states renowned for their comparatively good human rights practices in regards to the two core rights focused on in the spiral model, fall short in at least some areas. For example, there are concerns that the current US government is contravening international human rights norms on the use of cruel and degrading treatment in regards to its treatment of the alleged al Qaeda soldiers it has detained.<sup>71</sup> Working towards phase five requires that a state continues to be vigilant in ensuring that its human rights practices reflect international human rights norms. It also requires that the transnational human rights network maintains its vigilance to ensure sufficient pressure is placed on the target state to continue to improve its human rights practices.

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<sup>69</sup> Ibid. p. 33.

<sup>70</sup> Jetschke, "Linking the Unlinkable? International Norms and Nationalism in Indonesia and the Philippines," pp. 164-165.

<sup>71</sup> Reuters, *Rights Group: US Sees Itself 'Above the Law'* (The New York Times, 12 March 2003, available from <http://www.nytimes.com/reuters/politics/politics-iraq-rights-un.html?pagewanted=pri>).

### Blocking Factors to Progress Through the Spiral Model

Risse and Sikkink emphasise that the spiral model 'does not assume evolutionary progress toward norm implementation' but explains the variation in socialisation of target states to international human rights norms. Thus states may not pass through all of the model's phases, they may go back to a previous phase or miss a phase, and of course, may not proceed at all beyond a particular phase. According to Risse and Sikkink, states can fail to progress through the five phase model if they are significantly resistant to international pressures and increase their repressive practices. If states are not overly dependent upon outside aid and resources, they are less likely to respond to international criticism.<sup>72</sup> There are also various internal 'blocking factors'<sup>73</sup> that can prevent the adoption of human rights norms by a state. One such factor can be the successful mobilisation by state elites of the national sentiment that the nation is under threat, reflecting that these elites perceive international human rights norms to be a threat to their power.<sup>74</sup>

One of the responses of the Chinese government to criticisms of the Tiananmen Square massacre was to generate a nationalist discourse that emphasised the past injustices wrought on China by imperialist powers and framed external criticisms of its human rights practices as an example of Western cultural hegemony. China's leaders have also not wanted to embrace any changes that would threaten the power of the Communist Party and so any human rights practice improvements that have been made have not so far involved moves towards national democratisation. The increased repression of various opposition groups since 1998 is also indicative of this. In addition, many democratic states have developed strong trade relationships with China, providing these states with economic incentives to self-censor their concerns regarding human rights abuses in China, and thus the Chinese government with a

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<sup>72</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 34.

<sup>73</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 260.

<sup>74</sup> Ibid. p. 260.

degree of protection from such criticisms. The extent to which such blocking factors may inhibit the Chinese government's progress through the model's phases will be discussed in subsequent chapters.

### **Critique of the Spiral Model**

The preceding discussion has outlined the characteristics of each of the five phases of the spiral model. Blocking factors to progress through the phases were also explored, highlighting that positive changes to the human rights practices of target states in response to actions of a transnational human rights network are by no means assured. Some of the assumptions of the spiral model will now be discussed in order to critique the model and set the scene for this thesis' testing of the model in relation to China's human rights practices since 1989. The critique centres on the model's claimed basis in constructivism and the model's focus on two core rights and their applicability to China.

#### Constructivism and the Spiral Model

In terms of Risse et al.'s claim that the spiral model lies within the constructivist approach, it is clear that it does lie within mainstream constructivism in so far as the model places an emphasis on ideational factors as well as material factors in its explanations of the processes that may lead a target state to change its human rights practices. International human rights norms, as intersubjective ideas, have been created by the communications between states and other international actors. These norms are assumed to have significant influence over the behaviour of domestic and international actors who form the transnational human rights network. Under certain conditions, these norms can also influence a target state. However, the influence of other factors is also acknowledged, for example, material factors such as economic issues, and key members of a state's elite. One of the spiral model's strengths is that it does not discount the influence of material factors or self-interest on target states'

actions despite its focus on the influence of norms. The model does not dismiss the potential of the influence of these factors but does seek to account for how such factors came to matter in the first place.<sup>75</sup> The model thus seeks to add another layer of understanding to more traditional approaches to changes in state practices.

Risse et al.'s study also addressed the limitations of some of the earlier studies exploring the conditions under which a transnational network of actors promoting particular norms influences the identity, interests and behaviours of a target state. By examining a range of case studies Risse et al. have provided a useful comparative study on the variation in influence of international human rights norms on states' identities, interests and behaviours. In addition, their spiral model has specified the causal mechanisms involved when norms influence the identities, interests and behaviours of states through its exploration of the socialisation processes a target state experiences following the sustained mobilisation of a transnational human rights network. Thus the spiral model is a constructivist theory in that it goes beyond concluding that international human rights norms matter to arguing how, where and why these norms matter to target states.

In other words, the spiral model focuses on both constitutive and causal relationships.<sup>76</sup> For constructivists it is necessary to understand how something is constituted in order to be able to explain how it behaves. Having

an understanding of how sovereignty, human rights, laws of war, or bureaucracies are constituted socially allows us to hypothesise about their effects in world politics. Constitution in this sense is causal, since how things

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<sup>75</sup> For example, in the chapter on South Africa the influence of the end of the Cold War on the South African state's decision making regarding moves towards a democratic political system is acknowledged. Black, "The Long and Winding Road: International Norms and Domestic Political Change in South Africa," p. 107.

<sup>76</sup> This again highlights one of the debates within constructivism, between rule-oriented constructivists such as Onuf and Kratochwil and mainstream constructivists such as Wendt. Onuf and Kratochwil argue that constructivism focuses on constitutive relationships only whereas Wendt argues that there can be a focus on both causal and constitutive relationships. See Zehfuss, "Constructivisms in International Relations: Wendt, Onuf and Kratochwil".

are put together makes possible, even probable, certain kinds of political behaviour and effects.<sup>77</sup>

The essence of the causal relationship explored by the spiral model is the constitution of the target state's identity and interests since the behaviours of the target state will be influenced by how its identity and interests are put together. Therefore, we need to understand the constitution of a target state's identity and interests in order to be able to explain its behaviour. This also enables us to identify what may cause a target state to behave in certain ways.

The spiral model focuses on the influence of international human rights norms on the identity, interests and behaviours of states. A target state is assumed to exhibit behaviour indicating progress through the model's five phases as its identity and interests are increasingly influenced by international human rights norms, as promoted by a transnational human rights network.<sup>78</sup> However, the constructivist approach emphasises that the identities and interests of a state are in a mutually constitutive relationship with international human rights norms. Thus the spiral model only explores one part of this relationship – the influence of these norms on the identities and interests of target states. As with some of the earlier studies on norms, transnational networks and target states, the case studies in Risse et al.'s book do not directly address the other part of the constitutive issue that is the influence of target states on international human rights norms. This issue is only touched upon in Risse and Ropp's discussion on "world time", where they conclude that some of the target states in their case studies have contributed to the growth of transnational human rights networks and the strengthening of international human rights norms.<sup>79</sup> The spiral model also only touches on the construction of identities and interests of states involved in transnational human rights networks and the role of international human

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<sup>77</sup> Finnemore and Sikkink, "Taking Stock: The Constructivist Research Program in International Relations and Comparative Politics," p. 394.

<sup>78</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 7.

<sup>79</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," pp. 264-65.



rights norms in their construction. These processes are referred to only in terms of how networks of domestic and international actors join to form international regimes that set about to achieve aims, including pressuring states from both the international and domestic arenas. These pressures encourage these states in turn to pressure a target state to improve its human rights practices.<sup>80</sup> There is little discussion on the constitutive relationship between these states' identities and interests and international human rights norms. The spiral model takes as given the constitutive relationships between international human rights norms and other states' identities and interests, and does not explore any influence a target state may have on international human rights norms.

This critique does not discount the usefulness of the model in exploring the impact of international human rights norms on the practices of the Chinese government. But we must be clear on the limitations of the model. The spiral model does not illuminate the influence of target states' identities and interests on international human rights norms. What it does attempt to do is account for the influence of international human rights norms as ideational factors on target state human rights practices. It cannot help us to understand how these norms were established in the first place, nor how these norms may be altered by their ongoing constitutive relationship with target states' identities and interests. Therefore, the spiral model does not allow for any influence the Chinese government may have on international human rights norms to be highlighted. Given that China is a significant actor on the international stage and an important regional actor, whether this state has had an influence on international human rights norms or not is a relevant issue.

Over the time period focused on in this research China has had an impact on international debates on universal human rights and on the mechanisms for their enforcement. For example, China played a leading role in efforts by the Group of 77 delegates to the UN to block greater NGO participation at the 1993 Vienna Human

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<sup>80</sup> Risse and Sikink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," pp. 4-5, 23.

Rights Conference. NGO access to state decision making at this conference was increasingly limited by these states as the issues became more sensitive and decision making progressed towards the formal outcomes of the conference.<sup>81</sup> By 1998 Chinese diplomatic efforts also succeeded in discouraging most states from again supporting an annual UNCHR resolution highlighting China's human rights abuses. Given that China has had an influence on the ongoing construction of the enforcement mechanisms of international human rights norms, and attempted to influence the ongoing construction of the norms themselves, the influence of the Chinese government on international human rights norms and mechanisms will be included in this research. This will illuminate a constructivist focus that is lacking in the spiral model – the influence of a target state on international human rights norms. These issues will be further discussed in Chapters Five and Six.

#### The Spiral Model's Focus on Two Core Rights and Their Applicability to China

The spiral model focuses on the two core rights of the right to life, or freedom from extrajudicial execution and disappearance, and the right to freedom from torture, arbitrary arrest and detention. Part of the justification of focusing on these rights is that they are assumed to be universal.<sup>82</sup> However, Risse et al.'s focus on these two core rights has been criticised on the grounds that while they may indeed be considered universal, these particular rights tend to be violated mostly by non-Western states. Risse et al. have not engaged in the debate on the universality of all human rights and the implications of focusing on their chosen rights,<sup>83</sup> and their case studies do largely focus on non-Western states reflecting that the chosen rights are largely violated by non-Western states. Therefore, the spiral model has not been used to test

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<sup>81</sup> Ann Marie Clark, Elisabeth J. Friedman, and Kathryn Hochstetler, "The Sovereign Limits of Global Civil Society: A Comparison of NGO Participation in UN World Conferences on the Environment, Human Rights and Women," *World Politics* 51 (1998), p. 18; Peter J. Spiro, "New Global Communities: Nongovernmental Organisations in International Decision-Making Institutions," *The Washington Quarterly* 18, no. 1 (1995), p. 12.

<sup>82</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," p. 2.

<sup>83</sup> Tony Evans, "Book Review - the Power of Human Rights: International Norms and Domestic Change," *Journal of Modern African Studies* 39, no. 2 (2001), p. 381; David P. Forsythe, "Book Reviews: International Relations," *American Political Science Review* 95, no. 3 (2001), p. 770.

the causal relationship between the impact of particular international human rights norms that Western states abuse and these states' human rights practices.<sup>84</sup> Further research is warranted with a focus on other rights, particularly those rights that Western states continue to abuse. But this need for further research in this area cannot deny the abuses carried out by states on the core set of human rights chosen by Risse et al.. They may be predominantly non-Western states but this cannot be an argument for downplaying any focus on these states' abuses. Therefore the importance of focusing on these core rights should not be subsumed by the above criticisms. The criticisms rightly point to the need for further research, not for the need to replace the theme of this current research.<sup>85</sup>

Before proceeding with this discussion, however, it needs to be established whether Risse et al.'s core rights can be applied to China. That is, can it be argued that China's cultural heritage, in particular Confucianism that has been particularly influential in Chinese societies and was the state ideology for 2000 years,<sup>86</sup> could be receptive to these core rights. If it cannot be argued that Confucianism could be receptive to the core rights, then there can be no discussion on how the Chinese government could be socialised to international human rights norms and therefore no point in trying to test the spiral model in the case of China. The following discussion will argue that Confucianism is not incompatible with Risse et al.'s core rights. Therefore, China's Confucian heritage does not preclude it from accepting practices based on the rights to

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<sup>84</sup> Ibid. p. 770. One such human right is the right of those who have faced persecution in their own countries to seek asylum in another country. The refugee and asylum seeker policies of Western states such as Australia continue to be accused of violating this report. See Amnesty International Press Release ASA 12/007/2002, 3 May 2002, "Australia: Ten years of detention for asylum-seekers – time for change", at <http://web.amnesty.org/library/Index/ENGASA120072002?open&of=ENG-AUS>

<sup>85</sup> Further research in a constructivist vein could focus on analysing international human rights norms as rules according to who is benefiting from these rules, who is not and to what degree. This would be consistent with Onuf's rule-oriented constructivist approach. See Nicholas G. Onuf, "The Constitution of International Society," *European Journal of International Law* 5, no. 1 (1994), 1-19; Nicholas G. Onuf, "A Constructivist Manifesto," in *Constituting International Political Economy*, ed. Kurt Burch and Raymond A. Denemark (Boulder: Lynne Rienner, 1997), 7-17; Nicholas G. Onuf, "Sovereignty: Outline of a Conceptual History," *Alternatives* 16, no. 4 (1991), 425-46; Nicholas G. Onuf, *World of Our Making: Rules and Rule in Social Theory and International Relations* (Columbia: University of South Carolina Press: 1989).

<sup>86</sup> Robert Weatherley, *The Discourse of Human Rights in China: Historical and Ideological Perspectives* (Basingstoke: MacMillan Press, 1999), p. 38.

freedom from extrajudicial execution and disappearance, and freedom from torture, arbitrary arrest and detention.

The argument that the human rights concept is not necessarily compatible with the cultural values of all nations has been debated in relation to China. Buddhism, Daoism, Monism and Legalism have all had an influence on Chinese cultures but, as mentioned, Confucianism has been particularly influential. Some have argued that Confucianism is not compatible with the idea of universal human rights applying to all human beings as autonomous individuals.<sup>87</sup> For example, Weatherley argues that this philosophy is based on the idea of 'moral *inequality* which evaluated human worth in accordance with familial and social status'.<sup>88</sup> Therefore, because it promotes moral inequality, Confucianism could not be compatible with a notion of human rights that is based on the belief that all humans have 'moral worth and dignity'.<sup>89</sup>

If a focus is placed on the potential for Confucianism to provide a receptive cultural heritage to the universal human rights concept, more positive conclusions can be reached. The emphasis in Confucianism on "benevolence" can be particularly used to illustrate such a potential. The original meaning of benevolence in classical Confucian thought was to "love all men" which meant to treat all people with respect and in a humane fashion.<sup>90</sup> The benevolence concept provides 'a theoretical foundation and fertile soil for human rights ideology. Both notions emphasise human dignity, the

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<sup>87</sup> Roger T. Ames, "Continuing the Conversation on Chinese Human Rights," *Ethics and International Affairs* 11 (1997), p. 205; H. Rosemount Jr, "Why Take Rights Seriously? A Confucian Critique," in *Human Rights and the World's Religions*, ed. Leroy S. Rouner (Notre Dame: University of Notre Dame, 1988), p. 177; Weatherley, *The Discourse of Human Rights in China: Historical and Ideological Perspectives*, p. 37.

<sup>88</sup> *Ibid* p 37

<sup>89</sup> *Ibid* p 39

<sup>90</sup> Du Gangjian and Song Gang, "Relating Human Rights to Chinese Culture: The Four Paths of the Confucian Analects and the Four Principles of a New Theory of Benevolence," in *Human Rights and Chinese Values. Legal, Philosophical and Political Perspectives*, ed. Michael C. Davis (New York: Oxford University Press, 1995), p. 37; Wang Keju, "Mechanism for Implementing Human Rights Norms in China," in *Human Rights and Administration of Justice: Collected Papers from the Chinese-Danish Symposium on the Protection of Human Rights in Judicial Work*, ed. Liu Haimian, Li Lin, and Morten Kjaerum (China Legal System Publishing House, 1999), p. 127.

significance of human nature, human subjectivity..., a dynamic human role, and human independence and freedom.<sup>91</sup>

In his examination of early Confucian thoughts, which have survived to remain an influence on present day China, Chan found that elements of this strand of Confucian philosophy are compatible with the human rights concept.<sup>92</sup> For example, Chan refutes the argument that if each individual is to have human rights that must be respected, then this must mean that the individual and their rights exist independent of society. This 'goes against the Confucian view that human beings must live in society to become really human and lead flourishing lives.'<sup>93</sup> Chan argues that just because humans are entitled to have their rights respected regardless of their age, religion, gender, nationality, et cetera, this does not mean they do not have these attributes, and does not deny that they are social beings

The international charter of human rights includes rights that protect those interests of an individual that are social in nature: Freedom of expression protects an individual's interest in communicating with others, especially in the public sphere; freedom of religion protects one's interests in joining religious associations. These rights show precisely that the concept of human rights presupposes the fact that human beings are social and cultural animals. We must not confuse the basis of individual rights with the content of those rights.<sup>94</sup>

In terms of the applicability of particular rights to China's cultural heritage, the right to freedom from extrajudicial execution and disappearance, and the right to freedom from torture, arbitrary arrest and detention could be embraced by Confucianism. In his exploration of how Confucianism might embrace some of the particular human

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<sup>91</sup> Du Gangjian and Song Gang, "Relating Human Rights to Chinese Culture: The Four Paths of the Confucian Analects and the Four Principles of a New Theory of Benevolence," p. 39.

<sup>92</sup> Joseph Chan, "A Confucian Perspective on Human Rights for Contemporary China," in *The East Asian Challenge for Human Rights*, ed. Joanne R. Bauer and Daniel A. Bell (Cambridge: Cambridge University Press, 1999), p. 215.

<sup>93</sup> *Ibid.* p. 216.

<sup>94</sup> *Ibid.* p. 216.

rights in the international instruments, Chan concluded that it could accept the rights not to be tortured and to a fair trial as the philosophy accepts the need for such a fallback position should virtues not be exercised by one partner of a relationship. The right to freedom of expression could also be endorsed by Confucianism but the justification for this would differ from those of Western perspectives. Confucius and Mencius both referred to the need for political discussion and criticism of rulers in order for politics to progress in a healthy fashion.<sup>95</sup> This does not mean they would have endorsed a total freedom of expression, but they would accept the right to freedom of expression in the political realm if it would contribute to the healthy development of a society's cultural and political life. This in turn would assist in the achievement of the "ultimate goal" of Confucianism which is for each person to attain *ren* (meaning "person"), part of which is the ability to be sensitive to the suffering of others.<sup>96</sup>

The potential for Confucianism to embrace the right to freedom from torture, arbitrary arrest and detention, and the right to freedom of expression, further implies that the rights to freedom from extrajudicial execution, disappearance, arbitrary arrest and detention could also be embraced. If an individual has the right to a fair trial and freedom of expression, it must also follow that the individual would also have the right not to be extrajudicially executed or disappeared. Furthermore, it must follow that an individual would have the right to freedom from arbitrary arrest and detention as the principles of a fair trial presume the arrest and detention of a person on the basis of some sound evidence, not on the basis of their exercising their right to freedom of expression.

Thus it can be argued that the Confucian heritage of China could be receptive to the rights to freedom from extrajudicial execution and disappearance, and freedom from torture, arbitrary arrest and detention. Others have refuted the cultural relativity argument that the universal human rights concept does not apply to all cultures on the

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<sup>95</sup> Ibid. p. 228.

<sup>96</sup> Ibid. p. 229.

grounds that cultures evolve and so could encompass human rights over time.<sup>97</sup> Further justification for the applicability of these rights to China comes from Chinese writers. For example, concerns about the use of torture in Chinese police stations and prisons have been documented by various Chinese writers.<sup>98</sup> Others, including former political dissidents, have called for various political freedoms to be respected in China. Prominent intellectuals such as Fang Lizhi and dissidents such as Wei Jingsheng have articulated this need.<sup>99</sup> Such calls for political freedoms have 'evolved directly out of political terror, personal experiences of persecution, and extreme political acts of inhumanity'.<sup>100</sup> Therefore, Risse et al.'s focus on two core rights can be applied to a discussion on human rights in China.

### Other Explanations

It is also important in this research to explore whether there are other explanations that can more plausibly account for changes in the Chinese government's human rights practices than the spiral model. Risse et al. explored the degree to which neorealist and modernisation theories explained the variation in human rights practices of target

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<sup>97</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong: Oxford University Press, 1993), p. 20; Ken Booth, "Three Tyrannies," in *Human Rights in Global Politics*, ed. Tim Dunne and Nicholas J. Wheeler (Cambridge: Cambridge University Press, 1999), p. 34.

<sup>98</sup> Li Lin, "Organisation and Power of Police in China," in *Human Rights Administration of Justice: Collected Papers from the Chinese-Danish Symposium on the Protection of Human Rights in Judicial Work*, ed. Liu Hainian, Li Lin, and Morten Kjaerum (China Legal System Publishing House, 1999), p. 154; Liu Qing, "Preface," in *The Courage to Stand Alone: Letters from Prison and Other Writings*, ed. Wei Jingsheng (Harmondsworth: Penguin Books, 1997), p. xxiv; Bi Xiaoqing, "Protection of the Rights of Detainees and Prohibition of Torture in China," in *Human Rights and Administration of Justice: Collected Papers from the Chinese-Danish Symposium on the Protection of Human Rights in Judicial Work*, ed. Liu Hainian, Li Lin, and Morten Kjaerum (China Legal System Publishing House, 1999), p. 220-223.

<sup>99</sup> Fang Lizhi, *Bringing Down the Great Wall: Writings on Science, Culture, and Democracy in China* (New York: W.W. Norton and Co., 1990); Wei Jingsheng, *The Courage to Stand Alone: Letters from Prison and Other Writings* (Harmondsworth: Penguin Books, 1997).

<sup>100</sup> Michael J. Sullivan, "Developmentalism and China's Human Rights Policy," in *Debating Human Rights: Critical Essays from the United States and Asia*, ed. Peter Van Ness (London: Routledge, 1999), p. 124.

states. In all of the cases examined these theories were found to be incomplete explanations of such variation.<sup>101</sup>

Neorealist explanations for changes in human rights practices centre on the influence of great powers on target states. From this perspective, the actions of states with the most economic and military power are seen as the decisive factor in bringing about human rights improvements in another state. This is not to dismiss the efforts of a transnational human rights regime, but the influence of great powers within this network are seen as the driving element.<sup>102</sup> International regimes are assumed to be 'created to promote the interests of particular actors...[and so they] are a function of the distribution of power and interests among states.'<sup>103</sup> Therefore, the degree to which target states will respond to pressures from a transnational human rights regime will depend on the extent to which the more powerful states enforce the regime's human rights norms.<sup>104</sup>

The spiral model does not discount the influence of factors other than ideational ones on state behaviours, including the influence of great powers. However, Risse and Ropp concluded that 'great powers and their resources are only used to promote international human rights norms to the extent that shaming and lobbying activities of transnational advocacy networks are successful.'<sup>105</sup> For example, in the chapter on South Africa it was found that US government actions against the apartheid state, coinciding with South Africa's moves towards reforming the political system, only emerged after the transnational regime began to have significant influence over US

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<sup>101</sup> For a summary see Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," pp. 267-270.

<sup>102</sup> Stephen D. Krasner, "Sovereignty, Regimes, and Human Rights," in *Regime Theory and International Relations*, ed. Volker Rittberger and Peter Mayer (Oxford: Clarendon Press, 1995), pp. 166-167.

<sup>103</sup> Krasner, "Sovereignty, Regimes, and Human Rights," p. 140. See also Stephen D. Krasner, "Power Politics, Institutions, and Transnational Relations," in *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions*, ed. Thomas Risse-Kappen (Cambridge: Cambridge University Press, 1995): 257-79.

<sup>104</sup> Krasner, "Sovereignty, Regimes, and Human Rights," p. 140-41.

<sup>105</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 269.



Congress decision making.<sup>106</sup> In this case, as with the others included in their book, Risse et al. found that great powers did not have significant effects on the actions of target states independent of transnational human rights network efforts.

Another explanation that may account for changes in China's human rights practices is provided by modernisation theories. These theories argue that economic development brings about various changes within a society that lead to democratisation and the establishment of the rule of law. This, in turn, would provide for the legal protection within states of the human rights examined in this research. These societal changes include increasing educational and literacy levels and exposure to media, which promote an interest in and greater knowledge of political affairs. This is then assumed to lead to increased political participation. According to some modernisation theorists, it is the growth of a middle class that is likely to provide the greatest challenge to the political power of the elites.<sup>107</sup>

These versions of modernisation theories have received little empirical support. For example, in Latin America in the 1960s many states experienced economic growth but more authoritarian forms of political systems were chosen over democracies. In contrast, economic crises and recession in the 1980s saw these states return to democratisation.<sup>108</sup> In none of the countries examined in Risse et al.'s book was a link between economic development and democracy found. As with the findings in Latin America, some of the states examined were found to be authoritarian in times of economic growth and some followed a democratisation process in periods of economic downturn.<sup>109</sup>

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<sup>106</sup> Black, "The Long and Winding Road: International Norms and Domestic Political Change in South Africa," p. 106.

<sup>107</sup> Axel Hadenius, *Democracy and Development* (Cambridge: Cambridge University Press, 1992), p. 78.

<sup>108</sup> Viviane Brachet-Marquez, "Explaining Sociopolitical Change in Latin America: The Case of Mexico," *Latin American Research Review* 27, no. 3 (1992), p. 111.

<sup>109</sup> Improvements in human rights practices and the commencement of the democratisation process were found in the Philippines, Poland, Czechoslovakia, South Africa and Chile at times of economic crises, and Kenya and Tunisia had authoritarian forms of government at the same time as they were experiencing economic growth. Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 269.

In addition to exploring the five phases of the spiral model in relation to China throughout this thesis, Chapter Seven will assess whether the neorealist and modernisation theories provide a more plausible explanation for changes in the Chinese government's human rights practices from the time of greater international attention to human rights in China in 1989 to 2003. The plausibility of neorealism will be explored by examining the actions of the US government concerning the Chinese government's human rights practices and any subsequent changes in the Chinese government's practices. Any changes in these practices found to be linked primarily to US government pressures will then be compared with China's overall improvements in human rights practices to assess whether these changes are significant. The modernisation theory emphasising the role of the middle class will be assessed by exploring the nature of the political participation of the middle class in China, and whether this can explain changes in the Chinese government's human rights practices. In addition, changes brought about by China's modernisation programme and their potential for democratisation in China in the future will be briefly explored.

### **Conclusion**

This chapter has explained the five phases of the spiral model in the context of its constructivist basis that ideational factors, in the form of international human rights norms, as well as material factors can influence the human rights practices of target states. A critique of the spiral model highlighted that the model emphasises only certain aspects of the constitutive relationship between the identities, interests and behaviours of states and international human rights norms. The spiral model does focus on the influence of international human rights norms on target states' identities, interests and behaviours. However, it only touches on the mutually constitutive relationship between states in the transnational human rights network and international human rights norms, and it does not address any influence a target state may have on

these norms. Given that China is a state of power and influence in the international arena compared with the states examined in Risse et al.'s book, the Chinese government's influence on international human rights norms will be examined in this thesis. The critique also highlighted that model's focus on the two core rights can be applied to a discussion on human rights in China as it can be argued that China's Confucian heritage does not prevent the country from being receptive to practices based on the core rights.

Alternative explanations to the spiral model that may provide more plausible accounts of change in the Chinese government's human rights practices were also detailed in this chapter. Neorealist explanations centre on the role of the US as the most powerful state in terms of military and economic might in bringing about changes in human rights practices in China. Modernisation theories focus on the changes in society brought about by economic development that are thought to lead to democratisation and the rule of law as an explanation for any improvements in human rights practices. If this research finds that material factors such as military and economic pressures and/or economic development processes have more influence over China's human rights practices than the efforts of the transnational human rights regime, then the spiral model cannot be considered a sufficiently valid tool in the case of China.

Upon initial examination, it would appear that the activities of the transnational human rights network and the Chinese government's human rights practices share characteristics with those outlined in the first three phases of the model. Therefore, these three phases will be explored in this thesis in relation to China since 1957. Both the activities of the transnational human rights network and the Chinese government's human rights practices will be explored to establish whether there is a causal relationship between them. Any influence that China may have had on international human rights norms and the transnational human rights network will also be examined over the time period of this research.

## Chapter Three - Phase One: Repression and Network Activation 1957-1989

### Introduction

According to the spiral model, phase one commences when there is a significant increase in the human rights abuses carried out by the target state. China under communist rule since 1949 has experienced wide-scale abuses of the two core rights. The scale of these abuses significantly increased for the first time in the late 1950s with the “anti-rightist” campaign during which hundreds of thousands of intellectuals were persecuted. This campaign placed China under CCP rule in phase one of the spiral model. For progress to the second phase of the model to be achieved, a transnational network of domestic and international human rights NGOs must be able to get information on these human rights abuses to the outside world. The catalyst for China’s progress to phase two was the government-initiated killings in Beijing in June 1989, commonly known as the Tiananmen Square massacre.<sup>1</sup> This is because the international media in Beijing for the visit of President Gorbachev were able to record the growing demonstrations in Tiananmen Square and ultimately the killings, thus allowing the outside world immediate access to information on the abuses. Some of the demonstrations in Tibet from late 1987 to March 1989 also attracted a violent response from the Chinese government, but they did not have the presence of the international media to record them and thus the international response was relatively muted.<sup>2</sup> The violence and deaths of the “anti-rightist” campaign from 1957 to 1958 and the Cultural Revolution from 1966 to 1976 similarly got relatively little comment in the international media. In the 1950s, 1960s and 1970s international human rights NGOs were yet to mobilise on a significant scale and this also limited the channels

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<sup>1</sup> The events of 4 June, 1989 in Beijing are largely known as the Tiananmen Square massacre. However, most of the killings were carried out in other parts of Beijing, in particular Fuxing, Fuxingmen and Chang’an Boulevard west of Tiananmen Square where citizens amassed and tried to prevent soldiers reaching the Square. See Catarina Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China* (Lund: Lund Political Studies, 1995), p. 9.

<sup>2</sup> Some reports appeared in the Western press but critical comments from democratic governments were tempered out of fears that conservative forces in the CCP may benefit from the unrest and inhibit economic reforms if too much outside criticism was forthcoming. Rosemary Foot, *Rights*

through which information on these human rights abuses could reach the outside world.<sup>3</sup>

This chapter will explore phase one of the spiral model for the Chinese government, setting the scene for the events of the Tiananmen Square massacre in China and the international response that followed the massacre. The chapter will include a discussion on China under the CCP rule, the commencement of the economic development process in China, and the creation of voices independent of the government that this engendered. China's engagement with international human rights norms and institutions prior to 1989 will be discussed in this chapter. Responses of organisations outside China and democratic governments to human rights abuses in China prior to the Tiananmen Square massacre will also be explored and, in particular, the US and Australian governments' responses will be highlighted. In addition, the events of the Tiananmen Square massacre and subsequent human rights abuses that led to China entering phase two of the spiral model will be described, including the growth of the movement that led to the protests and the relationship between the Chinese government and opposition groups leading up to the massacre.

### **CCP Rule and China's Engagement with International Human Rights Norms From 1949 to 1989**

China's history since the advent of CCP rule in 1949 to June 1989 includes the human rights abuses of millions of Chinese, particularly during the period of Mao's rule. After a long struggle with Chiang Kai-shek's Kuomintang (KMT) forces against the Japanese during the Second World War, and then against the KMT forces, the Mao Zedong-led CCP proclaimed the People's Republic of China (PRC) in Peking in 1949 and itself as ruler. Under Mao the Chinese state had widespread influence throughout China. The state was 'characterised by highly

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*Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), p. 98.

<sup>3</sup> Thomas Risse and Stephen C. Ropp, "International Human Rights Norms and Domestic Change: Conclusions," in *The Power of Human Rights: International Norms and Domestic Change*, ed.

personalised and concentrated power' and played a controlling role in the economy and the redistribution of resources.<sup>4</sup> The CCP, a hierarchically organised political entity with Mao at the top, set and directed policy to other institutions. This was achieved through Party committees that would advise other parts of the government structure, and Party vetting of organisational appointments. The National People's Congress (NPC) was established to be representative of the people, but despite its theoretical status as being the peak body of the state, it too was effectively controlled by the CCP and became a communicator of policy to the masses. The CCP also controlled the media and defined allowable discourse through establishing a presence in most organisations and groups throughout society. This generated a society where material and social advantages became dependent on active support for the Party. A public security system was established as a further means for controlling the population, including the police and a justice system of courts and procuracies, although in reality being charged with a criminal offence by the police meant that guilt was likely to be the verdict.<sup>5</sup>

Mao's CCP was a highly disciplined party with party schools that educated cadres. "Mao Zedong thought" was adopted as the CCP's ideology, a version of Marxist-Leninist theory that stressed the liberation of the peasant masses and was characterised by Party control over most if not all aspects of members' lives. 'Prolonged criticism and self-criticism in small groups, confessions of guilt and repentance in public meetings, became standard procedures' to ensure the compliance of the Chinese people to CCP rule.<sup>6</sup> Soon after establishing the PRC, Mao embarked on a programme of industrialisation in an attempt to increase production to pre-war levels. This included land reform whereby landlords were identified as enemies and could be violently retaliated against by their local communities with CCP encouragement. Further campaigns targeting so-called enemies of the people were instituted by Mao, including attempts to remove officials who had been in positions of influence during the KMT rule, and attacks

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Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 264.

<sup>4</sup> David Shambaugh, "The Chinese State in the Post-Mao Era," in *The Modern Chinese State*, ed. David Shambaugh (Cambridge: Cambridge University Press, 2000), p. 161.

<sup>5</sup> Frederick C. Teiwes, "The Chinese State During the Maoist Era," in *ibid.* pp. 113-27.

<sup>6</sup> John K. Fairbank and Edwin O. Reischauer, *China: Tradition and Transformation* (North Sydney: George Allen and Unwin Australia, 1979), p. 479.

on merchants and manufacturers, known as the bourgeoisie.<sup>7</sup> In all of these campaigns

the public was mobilised, committees established, and appearances created of great popular initiative, righteous anger, and enthusiasm for the triumph of virtue. Confessions, apologies, and the reform or elimination of culprits by suicide, execution, or labour camp followed.<sup>8</sup>

Many Chinese suffered horrifically under the campaigns of Mao's rule, particularly during the "anti-rightist" campaign from 1957 to 1958, the Great Leap Forward in 1958 and the Cultural Revolution from 1966 to 1976. The "anti-rightist" campaign involved the persecution of up to 700,000 intellectuals for their "bourgeois" tendencies and many of these were arrested, demoted and/or killed. During the Great Leap Forward Mao placed all agricultural production into commune form which subsequently led to a downturn in the production of grain and twenty million Chinese starving to death. Throughout the Cultural Revolution an estimated 100 million people, mostly educated, were persecuted by Red Guards or party officials for being "bourgeois", supportive of capitalism or "counterrevolutionary". Nearly one million people are thought to have died.<sup>9</sup>

It is easily assumed from the abuses of these and other CCP campaigns, and the more recent Tiananmen Square massacre, that the CCP in practice has placed little emphasis on the human rights of its citizens. Indeed, according to Lucian Pye, the Confucianism heritage of China and Chinese Leninism created societies that placed overwhelming importance on the rights of the state and little on those of the individual.<sup>10</sup> However, the CCP's original emphasis on Marxist theory, and its focus on securing the equitable distribution of resources, the right to work and security, highlights at least an implicit government focus on economic and social

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<sup>7</sup> Ibid. pp. 476-85.

<sup>8</sup> Ibid. p. 489.

<sup>9</sup> Roberta Cohen, "People's Republic of China: The Human Rights Exception," *Human Rights Quarterly* 9 (1987), pp. 448-49, 460.

<sup>10</sup> Lucian W. Pye, "The State and the Individual: An Overview Interpretation," in *The Individual and the State in China*, ed. Brian Hook (Oxford: Clarendon Press, 1996), p. 16.

human rights.<sup>11</sup> Despite the wide disparities in the distribution of economic benefits between its rural and urban regions, China under CCP rule has achieved improvements in the economic and social rights of its citizens.

In a few decades, China was transformed from a war-torn and poverty stricken society to a stable environment where the people were guaranteed at least a minimum of economic security, employment, good health, basic education, the opportunity to obtain work skills, and state or collective assistance in case of illness, disability, or old age.<sup>12</sup>

In addition, the four constitutions of China produced since the CCP's victory in 1949 have all included human rights expressed in western terms although, as has been outlined, in practice citizens had little protection against abuses that were perpetrated by their government.<sup>13</sup>

By the late 1970s the Chinese government began to build on this implicit focus on improving the economic and social human rights of its citizens, and its inclusion of some language consistent with international human rights norms in its constitutions, by having some involvement in international human rights activities. This involvement was precipitated by a number of developments within China and its growing engagement with the international community. Mao's death and the arrest of the Gang of Four in the late 1970s resulted in an unprecedented public description by senior Chinese officials of the cruelties of the "anti-rightist" campaign and the Cultural Revolution. This was an official acknowledgement that this suffering should not have occurred and those who were persecuted were promised rehabilitation.<sup>14</sup> Deng Xiaoping assumed the leadership of the Chinese government in 1978 and under his rule a modernisation programme commenced which increased China's involvement in international trade and economic affairs. China had also been a member of the UN and the UN Security Council as the

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<sup>11</sup> Ann Kent, "Human Rights: The Changing Balance-Sheet," in *China in the Nineties: Crisis Management and Beyond*, ed. David S. G. Goodman and George Segal (New York: Oxford University Press, 1991), p. 65.

<sup>12</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong: Oxford University Press, 1993), p. 71.

<sup>13</sup> *Ibid.* pp. 45-46.

<sup>14</sup> Cohen, "People's Republic of China: The Human Rights Exception," p. 448.



People's Republic of China since 1971 and had thus already begun its experiences of UN diplomacy.<sup>15</sup>

China's involvement in international human rights activities was also a reflection of its identity of being a great power in the international society of states.<sup>16</sup> China's humiliating century-long experience of being a semi-colony after the Opium War (1839-1842)<sup>17</sup> infused in the CCP rulers a strong desire to establish China as a world leader. Its nuclear weapons programme, aid programme, permanent membership of the UN Security Council and growing trade relationships have all reflected a great power identity and desire to influence global affairs.<sup>18</sup> Thus China began to engage in important international debates, such as those on human rights, and joined the UNCHR in 1982 and its Sub-Commission on the Prevention of Discrimination and Protection of Minorities in 1984.<sup>19</sup> Through the Chinese government's participation in these forums, it has sought to influence the nature of the human rights discourse by emphasising the importance of collective rights as opposed to individual rights, and the right to development over civil and political rights. In addition, socialism, as opposed to capitalism, was declared as the best political means of ensuring the full realisation of economic, social and cultural rights.<sup>20</sup> This engagement did not mean, however, that the Chinese government necessarily believed in the validity of international human rights norms, but that it desired an influential role in their debates.

Further engagement with the international human rights discourse was evident throughout the 1980s. From 1980 to 1983 China ratified or acceded to six UN

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<sup>15</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 101.

<sup>16</sup> As discussed by Thomas, states have multiple identities that can motivate their behaviours, reflecting their likely identification with more than one international society as well as their domestic societies. The more a state values a particular identity, the more it is likely to act in ways consistent with that identity's norms. Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, New Jersey: Princeton University Press, 2001), pp. 14-15. In the case of China, its identity as a great power has been a particularly valued identity and therefore this identity is the most relevant to discuss here.

<sup>17</sup> Yong Deng and Thomas G. Moore, "China Views Globalisation: Towards a New Great-Power Politics," *The Washington Quarterly* 27, no. 3 (2004), p. 127.

<sup>18</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*.

<sup>19</sup> Samuel S. Kim, "Thinking Globally in Post-Mao China," *Journal of Peace Research* 27, no. 2 (1990), p. 200. See also Cohen, "People's Republic of China: The Human Rights Exception," p. 537.

<sup>20</sup> *Ibid.* p. 464. Kim, "Thinking Globally in Post-Mao China," p. 200.

treaties on women, racial discrimination, refugees, apartheid and genocide. It made its first positive statements about the two UN human rights Covenants at the UN General Assembly (UNGA) in 1986. By 1988, China was claiming that first and second generations of rights were inseparable and interdependent, and had signed and ratified the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT).<sup>21</sup> Indeed, China had contributed to the drafting of the UNCAT, as well as the Convention Relating to the Status of Refugees and the declaration on minority rights. China also cautiously began to vote on the human rights issues of specific countries, for example, in 1985 China voted to support that the UNCHR should investigate the human rights situation in Chile.<sup>22</sup> Reflecting this engagement, China's 1982 constitution included more of the language of international human rights norms than previous constitutions. However, this constitution still failed to provide for the protection of rights from the Universal Declaration of Human Rights (UDHR) such as the right to life, freedom from torture, the right to a fair and open trial, and freedom of thought and conscience.<sup>23</sup>

The lack of these human rights provisions in the 1982 constitution reflected that the Chinese government's involvement in the human rights discourse in the 1980s was an 'engagement' with rather than an 'exploration' of the international human rights standards. Although the Chinese government acknowledged 'past wrongs...and current weaknesses', it also 'sometimes attacked its critics for interference in its domestic affairs or slandering the country'. By supporting some of the international human rights mechanisms, China wanted to be seen 'as playing a constructive global role', reflecting its great power identity. Its initiatives in legal and constitutional reform also indicated that the Chinese government realised the importance of rule of law to its reform programme and international reputation.<sup>24</sup> However, the fact that many laws in China continued to be unable to

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<sup>21</sup> Cohen, "People's Republic of China: The Human Rights Exception," p. 537. Kim, "Thinking Globally in Post-Mao China," p. 200.

<sup>22</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 73.

<sup>23</sup> Gong Renren, "International Human Rights, Comparative Constitutionalism and Features of China's Constitution," in *Human Rights: Chinese and Canadian Perspectives*, ed. E.P. Mendes and A-M. Traeholt (Ottawa: The Human Rights Research and Education Centre, 1997), p. 91.

<sup>24</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 101.

be used effectively as a defence against the abuse of rights highlighted the limitations of the Chinese legal enshrinement of human rights.<sup>25</sup>

But despite China's legal system in reality reflecting little of its engagement in the global human rights discourse, the Chinese government's growing integration may have been a factor in the less brutal suppression of expressions of dissent in the 1980s than in previous decades.

Although there were periods of repression in the 1980s (and again in the 1990s), such as the "anti-spiritual pollution" campaign of 1983 and the "anti-bourgeois liberalisation" of early 1987, and various, mostly unsuccessful, attempts were made to regain control over the media, unlike in the past, the attacks were usually made specific in terms of an individual or one piece of writing, and did not encompass a person's entire career or extend to the person's family and colleagues.<sup>26</sup>

In particular, the Chinese government's suppression of the 50,000 student demonstrators in 1986 was not as brutal as the suppression of those involved in the Democracy Wall movement in 1979.

Another factor explaining the decreased degree of repressive measures used throughout most of the 1980s is likely to have been the increase in importance of international opinion to China, another reflection of its great power identity and its desire to project this identity. The Chinese government made concessions in response to external criticism or to attract economic or political gain on a number of occasions. For example, it announced several human rights reforms prior to Deng's visit to Washington in 1979 in order to appease the US government, such as the return of property and funds to those who had been persecuted during the Cultural Revolution. A number of political prisoners were also released after the

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<sup>25</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 46. Gong Renren, "International Human Rights, Comparative Constitutionalism and Features of China's Constitution," p. 91.

<sup>26</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 66-67.

intervention of the French government and AI campaigning in the late 1970s and early 1980s.<sup>27</sup>

Thus by 1989 the Chinese government had become a participant in the international human rights discourse resulting in some concessions to outside criticism, some improvements to domestic law (though changes in practice were largely yet to be seen) and the use of restraint in some repressive practices. Just prior to the commencement of the Chinese government's engagement with the international human rights discourse in the late 1970s, China also embarked on a modernisation programme that unwittingly led to the emergence of voices independent of the CCP.

### **The Economic Development Process in China and the Emergence of Independent Voices**

Following Deng Xiaoping's ascendancy to power after Mao's death in 1978, the reform era in China began with a focus on economic development.<sup>28</sup> Deng's Four Modernisations programme aimed to develop the agricultural, industrial, military and scientific sectors in China. By the mid 1980s the programme allowed for 'individual initiative and incentive' within the agricultural and industrial spheres.<sup>29</sup> China had commenced a process of transformation to a market economy and from 1978 to 2000 approximately 200 million Chinese had risen above the poverty line.<sup>30</sup> However, 265 million Chinese were still believed to be living in poverty in 2000, and evidence of growing disparities between those living in rural and urban areas, coastal and inland provinces, and men and women, continues into 2004.<sup>31</sup>

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<sup>27</sup> Cohen, "People's Republic of China: The Human Rights Exception," pp. 530-32.

<sup>28</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 81.

<sup>29</sup> Catarina Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China* (Lund: Lund Political Studies, 1995), p. 18. See also Cohen, "People's Republic of China: The Human Rights Exception," p. 530.

<sup>30</sup> The poverty line was considered to be \$US1 per day; see Department of Foreign Affairs and Trade, *People's Republic of China: Development Cooperation* (2000 [cited 8 June 2000]); available from <http://www.dfat.gov.au/geo/china/development.html>.

<sup>31</sup> *Ibid.*

Accompanying the process of economic development was a change in discourse by the CCP in an attempt to promote its own legitimacy. By the late 1970s the Chinese government began to promote “modernisation” which effectively downplayed China’s cultural heritage and the privileged position the peasants and, more broadly, the working classes had had during Mao’s reign. These groups came to be seen as backward in light of the push for “modernisation”.<sup>32</sup> Academics were encouraged to contribute to this change in discourse, raising their expectations of an elevated role in society, and some were encouraged to travel and study in other countries. Some academics took the opportunity to promote “Westernisation”, and along with this ‘there sometimes came, usually as something of an afterthought, an ambivalent and very vaguely defined wish for “democratisation” as well.’<sup>33</sup> Therefore, as a by product of trying to further its own legitimacy, the Chinese government became instrumental in empowering a social group within China that was calling for some level of political change.

Through the push for modernisation, and the increased legitimacy for its rule it hoped would follow, the CCP allowed for the existence of autonomous economic organisations.<sup>34</sup> Deng’s belief was that ‘if individuals and local units are granted some degree of autonomy, they have incentives to produce, thus this can promote productivity’, employment and government revenue.<sup>35</sup> By June 1989 autonomous groups such as the Young Economists’ Association, the Beijing Stone Group’s

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Joseph Kahn and Jim Yardley, *The Great Divide: Amid China's Boom, No Helping Hand for Young Qingming* (The New York Times, 1 August 2004 [cited 3 August 2004]); available from <http://www.nytimes.com/2004/08/01/international/01CHIN.html?pagewanted=print&...>

Zhu Muzhi, "Peace, Development and Human Rights," (Oslo: Presentation in Norway, 1997), p. 2.  
Zhu Muzhi, "Pursuing Human Rights: A Fair Go for All," (Perth: Presentation at Curtin University of Technology Conference - Human Rights: A Fair Go For All, 2000), p. 3.

<sup>32</sup> Vivienne Shue, "Global Imaginings, the State's Quest for Hegemony, and the Pursuit of Phantom Freedom in China: From Heshang to Falun Gong," in *Globalization and Democratization in Asia: The Construction of Identity*, ed. Catarina Kinnvall and Kristina Jonsson (London: Routledge, 2002), p. 212.

<sup>33</sup> Ibid. pp. 213-14.

<sup>34</sup> However, despite their independence, these groups have had links to the Party. This is related to the fact that economic reforms allowed for some Chinese to set up companies and those related to or having close links with Party officials found this the easiest to do. See He Baogang, "Dual Roles of Semi-Civil Society in Chinese Democratisation," *Australian Journal of Political Science* 29, no. 1 (1994), p. 159.

<sup>35</sup> Ibid. p. 166.

Institute for Social Development and the Beijing Social and Economic Research Institute were all considered to be legal by the Chinese government.<sup>36</sup>

Economic reforms also brought about increased numbers of journals and magazines being published within China, and by the late 1980s calls for increased media freedoms were being made.<sup>37</sup> Alternative sources of media from outside of China became available via satellite dishes and radio transmissions, and later the internet. The Chinese government found it difficult to effectively censor these sources of information. By the late 1980s, foreign broadcasting could be received in most of China and the Voice of America was the dominant source of news information from 1986 to 1988 and during the 1989 demonstrations. Foreign television shows highlighted the lifestyles of other countries compared with the Chinese. In particular, Chinese citizens were able to see that Chinese people living in neighbouring countries, such as Hong Kong, Taiwan and South Korea, were experiencing greater political freedoms than they were.<sup>38</sup>

By 1989 the modernisation programme had allowed for the creation of groups who had a significant degree of independence from the Chinese government, increased sources of media, and a growing populace who were able to compare their lifestyles with those in other countries. When urban Chinese began to take things further and demand in 1989 that a civil society independent of the authorities be allowed to exist,<sup>39</sup> the Party leaders became greatly concerned by such a challenge to their authority. This led to the Chinese government's use of force to quell the widely supported 1989 movement.<sup>40</sup>

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<sup>36</sup> Ibid. p. 156.

<sup>37</sup> Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*, p. 248.

<sup>38</sup> Ibid. pp. 252-53, 259.

<sup>39</sup> An illustration of this was the Trade Union Federation's donation of funds for the democracy movement of the demonstrators in Tiananmen Square in 1989. No such support was given to the 1978-1979 democratic wall movement. See He Baogang, "Dual Roles of Semi-Civil Society in Chinese Democratization," p. 157.

<sup>40</sup> Ibid. pp. 156-58.

## **The UN and International Human Rights NGOs and Human Rights in China Prior to June 1989**

There had been little attention given to the human rights abuses in China prior to the Tiananmen Square massacre by the UN and democratic states. China joined the UN in 1971, when the abuses of the Cultural Revolution were rampant, and yet there was no mention of these during UN human rights debates.<sup>41</sup> This was partly a reflection that at this time the human rights violations of member states were rarely acted upon by the UN. When actions on human rights in member states began to be taken in the late 1970s, however, China was still not the subject of UN human rights discussions and reports until the late 1980s. It was left to academics and a number of international human rights NGOs, particularly Amnesty International (AI), to place some focus on human rights in China from the late 1970s.<sup>42</sup>

Some of the few international human rights NGOs that had some focus on human rights in China in the late 1970s included the New York based Freedom House which published in 1976 an account of a Chinese citizen who had escaped the Cultural Revolution violence. The French based NGO Federation Internationale des Droits de l'Homme also highlighted human rights in China in the late 1970s, campaigning in 1979 on behalf of members of the Democratic Movement who had been arrested.<sup>43</sup> Outside access to Tibet had improved by the end of the 1970s, allowing information on human rights abuses in that region to reach other countries, and Tibet human rights groups began to be set up in the US and the UK. AI also adopted the cause of the Tibetans and at the end of the 1970s this international NGO was the only one to take a significant degree of action concerning human rights abuses in China.<sup>44</sup> The NGO produced the first human rights report on China's human rights record in 1978, which was focused on the civil right of immunity and examined Chinese legislation and the judicial and penal

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<sup>41</sup> This was despite the abuses in Tibet perpetrated by the Chinese government being debated in the UN General Assembly in the late 1950s and 1960s. Cohen, "People's Republic of China: The Human Rights Exception," p. 489.

<sup>42</sup> Ibid. pp. 489-90.

<sup>43</sup> Ibid. pp. 451, 502-3.

<sup>44</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 85-88.

institutions. It also focused on the treatment of prisoners, particularly prisoners of conscience, and the use of torture in detention.<sup>45</sup> AI's early campaigning resulted in the Chinese government becoming aware of international attention to its human rights record. Chinese officials even began to meet with AI officials in the 1980s and a number of political prisoners AI had campaigned about were released.<sup>46</sup> Following AI's lead, other international human rights NGOs, such as Asia Watch (later to become Human Rights Watch/Asia) began to focus on China in the mid to late 1980s.

Despite the general difficulties in getting evidence of human rights abuses in China out of the country, and the lack of focus on human rights abuses in China at the UN, international human rights NGOs had begun to focus on China's human rights practices in the late 1970s and 1980s. This allowed for at least some information on these abuses to reach democratic states. However, up until the events of June 1989 this information generated relatively little response from these states.<sup>47</sup>

### **Democratic States' Foreign Policies and Human Rights in China Prior to 1989**

In the years preceding the Tiananmen Square massacre, expressions of concern by democratic states about human rights abuses within China were largely muted. This general lack of response reflected in part the difficulties in getting evidence on these abuses out of the country. But it also reflected some appreciation by other states of the enormous difficulties the Chinese government faced in trying to meet its citizens' basic needs in the aftermath of the turmoil of Mao's reign. The growing trade relationships between China and many democratic states no doubt would have been another factor contributing to this muted response. In addition, for the US government and its allies there were powerful military strategic reasons

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<sup>45</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 154-55.

<sup>46</sup> Cohen, "People's Republic of China: The Human Rights Exception," pp. 505-7.

<sup>47</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 85-88.



for promoting a normalised relationship with China, in order to strengthen opposition to the Soviet Union.<sup>48</sup>

As will become evident in subsequent chapters, as the sole remaining superpower after the end of the Cold War and a powerful democratic government whose identity is linked to a concern for human rights, the actions of the US government in response to human rights abuses in China since 1989 have had more of an influence over subsequent Chinese behaviour than those of any other individual international actor.<sup>49</sup> Therefore, this section will particularly focus on US human rights policy prior to 1989 in order to set the scene for later US actions. In the following section, the Australian government's human rights policy prior to 1989 will be explored as an example of the development of a middle power's engagement with China on human rights issues.<sup>50</sup>

### The US Government's Foreign Policy and Human Rights in China Prior to June 1989

In the US it has largely been the Congress that has placed human rights on the foreign policy agenda. In response to US involvement in the Vietnam War, the Nixon administration's amoral practices and the civil rights movement, the US Congress began to focus on human rights initiatives in the 1970s.<sup>51</sup> A number of legislative changes reflecting concerns for human rights in other countries occurred throughout the 1970s and in 1976 the State Department began to write mandatory human rights reports on states given security assistance by the US. This initiative was later expanded to include reports on all UN member states and has come to be

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<sup>48</sup> Cohen, "People's Republic of China: The Human Rights Exception," pp. 451-75. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 88-89.

<sup>49</sup> This is not to suggest that the US government has been the only international actor to influence the Chinese government in relation to its human rights practices, or that the US government's actions have been in isolation of other international actors. As subsequent chapters will highlight, other democratic states, international and domestic human rights NGOs and activists, and UN human rights bodies as well as the US government formed a transnational human rights network that has had some influence on the Chinese government's human rights practices.

<sup>50</sup> Australia's human rights policy will also continue to be explored in some detail throughout this thesis to illustrate the activities of and dilemmas faced by a small-to-middle power in its relations with China.

<sup>51</sup> For example, the Congress initiated amendments in 1974 to the Foreign Assistance Act so that military and economic aid would be denied to governments that 'grossly violated the human rights

an important source of information on human rights abuses for other bodies, as well as serving to legitimise at least some place for human rights in US foreign policy decision making.<sup>52</sup> By the end of that decade the Carter administration's foreign policy included a greater focus on human rights issues than previous US governments. This was to be short-lived, however, with Carter shifting away from his human rights focus in 1980 in response to a US public that was increasingly concerned that their government should pay more attention to enhancing its defence capabilities than human rights issues.<sup>53</sup> When the Reagan administration came to power in 1981 this trend continued and human rights issues were generally downplayed. Despite this, Congress pressure was successful in encouraging Reagan to ratify the UN Convention on the Prevention and Punishment of the Crime of Genocide, the ICCPR, the UNCAT, and the International Convention on the Elimination of all Forms of Racial Discrimination.<sup>54</sup>

Even though there had been some human rights initiatives within US foreign policy up until 1989, very few of these were responses to reports of human rights abuses in China. The first US government response came in the wake of Chinese admissions of the horrors of the "anti-rightist" campaign and the Cultural Revolution, although the Carter administration's statement was limited 'to welcoming Chinese admissions of abuses and expressing the hope for further improvement'.<sup>55</sup> There was little US government response to the Chinese leadership's crackdown on the Democracy Wall Movement and the imprisonment of Wei Jingsheng for fifteen years in 1979.<sup>56</sup> There were some debates on China's human rights record within and between US government institutions from 1980. The result of one such debate between the Human Rights Bureau and the East Asia

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of its people'. See Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 42-43.

<sup>52</sup> Judith Innes de Neufville, "Human Rights Reporting as a Policy Tool: An Examination of the State Department Country Reports," *Human Rights Quarterly* 8, no. 4 (1986), pp. 684, 693.

<sup>53</sup> Despite the Carter administration being widely known as having a concern for human rights in other countries, its performance was inconsistent in that its rhetoric was not always followed with appropriate action. See John Dumbrell, *The Carter Presidency: A Re-Evaluation* (Manchester: Manchester University Press, 1993), pp. 186, 203.

<sup>54</sup> However, the ICCPR was ratified with a number of reservations, understandings and declarations that limited its applicability to the US. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 46.

<sup>55</sup> Cohen, "People's Republic of China: The Human Rights Exception," p. 450.

<sup>56</sup> The US government's only response was to issue a statement expressing its surprise and disappointment at the severity of the Chinese government's actions. *Ibid.* pp. 450, 477.

and Economic Bureaus within the State Department was a decision by the Carter administration in 1980 to not sell police equipment to the Chinese government, due to the State Department's 1980 report on China.<sup>57</sup> However, by the mid 1980s the arguments carrying the most clout were that

the situation in China was improving, especially when compared with the era of the Cultural Revolution; China had a different value system from the USA and thus had to be held to different standards; and...China was a major player in an anti-Soviet containment strategy that was the centrepiece of administration foreign policy efforts.<sup>58</sup>

Increased unrest in Tibet from September 1987 to March 1989 resulted in an increase in US Congress activity on human rights in China. Chinese forces responded to the unrest with instances of firing into crowds of demonstrators and martial law was declared in March 1989. This unrest coincided with improvements in US-Soviet and China-Soviet relations, which decreased the saliency of Cold War considerations on Western decision making regarding how to respond to human rights abuses in China. The Dalai Lama was thus invited to visit the US by Congress members and did so in September 1987, and a US government representative visited Tibet in April 1988. However, in a March 1988 meeting with the Chinese Foreign Minister, President Reagan did not discuss Tibet. This clearly maintained the consistent US strategy of downplaying the role of human rights in Sino-US relations.<sup>59</sup>

Therefore, except for some isolated actions and some increase in concerns being expressed by pockets of the US government, there was little response to human rights abuses in China by the US government leading up to the events of June 1989. Other democratic states were similarly unresponsive.

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<sup>57</sup> Ibid. p. 479.

<sup>58</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 93-94.

<sup>59</sup> Ibid. pp. 97-99.

## Other Democratic States' Foreign Policies and Human Rights in China Prior to June 1989

In contrast to the US, Japan's foreign policy did not include an emphasis on human rights until the aftermath of the Tiananmen Square massacre. This reflected that there were no internal or external pressures on the Japanese government prior to June 1989 to focus on human rights in other countries, unlike the US and many other Western states. In relation to China, Japan's history of aggression in that country meant that if the Japanese government highlighted human rights abuses in China, it would be leaving itself open for strident criticism of its own record. China's political dissidents also did not ask the Japanese government for help as they did the US government. In addition, Japan was an active supporter of China's modernisation programme from the time it commenced in 1978, which soon led to a strong Sino-Japanese economic relationship.<sup>60</sup>

Since the early days of its conception, the EU has had a focus on human rights due to the World War Two experiences of its member states. Membership of the Union is predicated on human rights being respected and the existence of the rule of law. By the early 1970s most Western European governments had accepted the jurisdiction of the European Court of Human Rights, and the European Human Rights Commission had significant monitoring authority.<sup>61</sup> In terms of a human rights focus, throughout the 1980s the EU was largely preoccupied with monitoring the compliance of Soviet and Eastern European governments with the human rights requirements of the Helsinki Final Act. In Great Britain the concern was to maintain good relations with China which was thought to be the best way to protect the freedoms of Hong Kong citizens leading up to the retrocession of that territory. One exception to this was a visit by a UK government representative to Tibet in April 1988 in response to the suppression of unrest. Earlier France had made several of the very few approaches by EU governments to the Chinese government concerning several cases of arrests in 1978 and 1981. Despite these instances,

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<sup>60</sup> K.V. Kesavan, "Japan and the Tiananmen Square Incident: Aspects of the Bilateral Relationship," *Asian Survey* 30, no. 7 (1990), p. 671. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001), pp. 86-87.

there was little attention given by the EU or its member states to human rights concerns in China leading up to the Tiananmen Square massacre.<sup>62</sup>

### The Australian Government's Foreign Policy and Human Rights in China Prior to June 1989

As with the EU, Australia has had some focus on human rights concerns since the end of World War Two. At the time of the drafting of the UN Charter and the adoption of the UDHR, the President of the UN was Australia's Dr Evatt who ensured Australia was one of the founding members of the UNCHR.<sup>63</sup> From this encouraging start, the 1950s and 1960s saw Australia's foreign policy dominated by Cold War polarisation and the fear of the spread of communism. Mirroring the US government, security concerns, not human rights, were the priority of Australian foreign policy in this period.

The election of the Whitlam government in 1972 saw an increase in emphasis on the developing world and global concerns, including human rights, and Australia subsequently signed the ICCPR and the ICESCR.<sup>64</sup> Some domestic reforms were introduced, such as racial discrimination legislation, but in terms of foreign policy human rights issues were largely not pursued as part of bilateral relations. This meant that other states were very rarely criticised for their human rights abuses. The most significant evidence of this from that time is the statements made by the Whitlam government leading up to the Indonesian invasion of East Timor, expressing support for East Timor becoming part of Indonesia on the grounds that its independence would lead to insecurity in the region.<sup>65</sup>

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<sup>61</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 49-50.

<sup>62</sup> Cohen, "People's Republic of China: The Human Rights Exception," p. 531. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 94-95.

<sup>63</sup> Ann Kent, "Human Rights," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), p. 163. Ian Russell, "Australia's Human Rights Policy: From Evatt to Evans," in *Australia's Human Rights Diplomacy*, ed. Ian Russell, Peter Van Ness, and Beng-Huat Chua (Canberra: Australian National University, 1992), p. 18.

<sup>64</sup> Kent, "Human Rights," p. 164. Russell, "Australia's Human Rights Policy: From Evatt to Evans," p. 22.

<sup>65</sup> *Ibid.* p. 24.

The Whitlam government's election also resulted in Australia's official recognition of China.<sup>66</sup> Whitlam had first visited China in 1971 as Leader of the Opposition at the time that the US government was showing signs of warming their relationship with China.<sup>67</sup> This ended the period of Australia's support for the US policy of isolation that had existed since Mao Zedong came to power in China in 1949.<sup>68</sup> But this isolationist approach had not prevented a strong trade relationship, initiated in 1961, developing between Australia and China. In conjunction with Australia's official recognition in 1972, the Sino-Australian trade foundations continued to strengthen with the signing of a bilateral agreement concerning wheat.<sup>69</sup>

The Coalition government's election victory in 1975 saw a continuation of the rhetoric that human rights were an important part of Australia's foreign policy, and this rhetoric began to be reflected in practice. The Fraser government's time in office from 1975 until 1983 was a period when international and domestic concerns over human rights significantly increased.<sup>70</sup> Following the lead of other nations, this was translated into support for the anti-apartheid campaign in South Africa.<sup>71</sup> The 1980s saw other government actions in regards to human rights, including the ratification of further UN conventions, a separate section in the Department of Foreign Affairs and Trade (DFAT) being set up to support organisations focusing on human rights, and initiatives to arrange for worldwide sanctions against South Africa.<sup>72</sup> In terms of Australia's relationship with China, the Fraser government continued Whitlam's policy of engagement. With the commencement of China's economic reform program in 1979, Australia was the

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<sup>66</sup> Ibid. p. 22.

<sup>67</sup> Kim Richard Nossal, *The Beijing Massacre: Australian Responses* (Canberra: Australian National University, 1993), p. 7.

<sup>68</sup> Australian perceptions of being vulnerable to invasion by over-populated Asian nations to the north reinforced its suspicions of Mao Zedong's China. See *ibid.* p. 4 and Ann Kent, "Australia-China Relations, 1966-1996: A Critical Overview," *Australian Journal of Politics and History* 42, no. 3 (1996), p. 366.

<sup>69</sup> Colin Mackerras, "Australia and China," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), p. 215.

<sup>70</sup> David Dutton, "Human Rights Diplomacy", unpublished version, since published in Peter Edwards and David Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000* (Melbourne: Melbourne University Press, 2003).

<sup>71</sup> Russell, "Australia's Human Rights Policy: From Evatt to Evans," p. 25.

<sup>72</sup> *Ibid.* p. 30.

first state to offer China development assistance and Australian aid and business investment in China increased.<sup>73</sup>

Following Labor's return to government in 1983, the human rights rhetoric continued throughout the 1980s with statements from various foreign ministers claiming that human rights were best promoted through supporting international human rights institutions as well as through bilateral relations. By the late 1980s, however, more emphasis was placed on human rights representations to other governments as part of bilateral relationships than in showing public support for multilateral institutions' initiatives.<sup>74</sup> The importance of Australia's trade relationships was an influential factor in government decisions on how to react to reports of human rights abuses overseas.<sup>75</sup>

The latter half of the 1980s also saw Australia's foreign policy begin to increasingly focus on Asia. Foreign Minister Bill Hayden indicated a respect for Asian views on human rights in his addresses in 1986 and 1987 by announcing that collective rights were just as important as individual rights, as well as emphasising the more Australian view that civil and political rights and economic, social and cultural rights were all equally important.<sup>76</sup> Following on from this, Gareth Evans, the Foreign Minister from 1988 to 1996, initiated a major reorientation in focus of the DFAT towards the Asia-Pacific region.<sup>77</sup>

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<sup>73</sup> Australian International Development Assistance Bureau, "Australia China: Development Cooperation - the Contribution of Official Development Assistance to Australia's Relations with China," (Canberra: Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, November 1994, Official Hansard Report, 6 February, 1995), p. 1245.

<sup>74</sup> Russell, "Australia's Human Rights Policy: From Evatt to Evans," p. 34. This trend was also observed in the 1990s. See Defence and Trade Joint Standing Committee on Foreign Affairs, *Improving But...: Australia's Regional Dialogue on Human Rights* (Canberra: The Parliament of the Commonwealth of Australia, 1998), p. 25.

<sup>75</sup> *Ibid.* p. 20.

<sup>76</sup> Kent, "Human Rights," p. 165.

<sup>77</sup> The Department of Foreign Affairs and the Department of Trade were merged in 1987 to become the Department of Foreign Affairs and Trade. This was in order to increase the focus on economic issues in foreign policy, reflecting the Hawke government's desire to ensure that Australia was able to do all that it could in terms of influencing international trade events. See John Ravenhill, "Economic Objectives," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997): 89-105. Department of Foreign Affairs and Trade, "The Australian Government's International Human Rights Policy and Activities 1994-1995," (Canberra: 1996), p. 16.

The Labor government further increased links with China throughout the 1980s by encouraging senior Chinese leaders to visit Australia.<sup>78</sup> This was part of Prime Minister Bob Hawke's attempts to develop personal relationships with Chinese leaders and an acknowledgement of the view that China was a critical player in establishing Australia in the Asia-Pacific region.<sup>79</sup> Australian foreign policy towards China in the 1980s focused on encouraging its economic development, particularly the Chinese trade industries.<sup>80</sup> In addition, a Memorandum of Understanding on Education between Australia and China was established in 1986, allowing for much greater numbers of Chinese students to enter Australia. By the time of the Tiananmen Square massacre in June 1989, Sino-Australian relations had developed into a large part of the Australian government's foreign policy.<sup>81</sup> Australia has also been described as being 'infatuated' with China in the 1980s with Australian ministers, academics and businesspeople all expressing admiration for China's development.<sup>82</sup>

In terms of human rights concerns, by 1989 Australia had developed some place for these within its foreign policy, reflected in the existence of a human rights section within DFAT and the AI Parliamentary Group. However, Australia had also cultivated good relations with China based on a significant trade relationship. It is therefore not surprising that prior to 1989 little focus was placed on human rights in China by the Australian government. Reports on human rights abuses in China began to be produced by the Australian embassy in Beijing at the time of the Democracy Wall movement in 1979.<sup>83</sup> Abuses involving political prisoners, labour re-education camps and legal systems were reported but very few public remarks were made by the Australian government concerning these. Individual cases were raised only occasionally in low-level discussions between Australian and Chinese government officials, and the 'words tact, discretion and persistence' recurred in internal documents as hallmarks of an effective diplomatic approach to

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<sup>78</sup> Mackerras, "Australia and China," p. 215.

<sup>79</sup> Nossal, *The Beijing Massacre: Australian Responses*, p. 12.

<sup>80</sup> Ross Garnaut, "Sino-Australian Economic Relations, 1983-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), p. 73.

<sup>81</sup> Nossal, *The Beijing Massacre: Australian Responses*, pp. 13, 16.

<sup>82</sup> Stephen FitzGerald, *Is Australia an Asian Country?* (St Leonards: Allen and Unwin, 1997), p. 25.

<sup>83</sup> David Dutton, "Human Rights Diplomacy", unpublished version, since published in Edwards and Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000*.



human rights cases in China'.<sup>84</sup> In the wake of the US and UK government representatives visits to Tibet in April 1988, the Australian Foreign Minister also visited Tibet in July of that year.<sup>85</sup> Apart from these instances of human rights concerns being raised with the Chinese government, leading up to the massacre in Beijing in June 1989 Australia was largely silent on human rights abuses in China.

### **The Tiananmen Square Massacre – The End of Phase One**

The popular demonstrations initiated by students that emerged in April and May 1989 were the beginning of events in China that culminated in the Tiananmen Square massacre and propelled the Chinese government into phase two of the spiral model. The demonstrations in Beijing and many other Chinese cities were the result of increasing concerns among Chinese citizens about widening disparities in wealth distribution, increasing prices and corruption by Party officials.<sup>86</sup> Despite being called the “Democracy Movement”, the demonstrators were primarily calling ‘for less corruption, for better rulers, for a dialogue with the party leaders, for the right of individuals to choose their own values, careers, and places of residence, for recognition of autonomous organisations, and for a freer press.’<sup>87</sup> The demonstrators were largely calling for their government to be accountable, not to be necessarily democratic.

An important factor that influenced the outcome of these demonstrations as they took over Tiananmen Square in June 1989 was the power struggle between two competing forces within the CCP that had intensified in 1988. One force included those who wanted China to increase its economic growth by increasing trade with the West and decreasing the role of the government in the economy, while still maintaining CCP rule. Zhao Ziyang, General Secretary of the CCP in 1989, and Hu Yaobang, the former General Secretary of the Party, were prominent figures in

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<sup>84</sup> David Dutton, “Human Rights Diplomacy”, unpublished version, since published in *ibid.*

<sup>85</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 98.

<sup>86</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 171.

<sup>87</sup> Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*, p. 24.

this force.<sup>88</sup> The other force, led by Li Peng as Premier of China in 1989, considered that a decrease in the government role in the economy would threaten the importance of the Party and instead promoted political stability.<sup>89</sup> The differences between these forces intensified in 1988 over what to do about the high inflation and blowout of the current account resulting from China's high rate of economic growth. Deng supported Zhao Ziyang and the other reformers' calls for the market to determine prices and an experiment on this was allowed in 1988. The result was accelerating inflation and the government reversed the reforms. Deng had thus shifted his support to the conservatives and 'Zhao was removed from the economic policy-making process'.<sup>90</sup> But this did not address the rising concerns of many Chinese citizens. A political crisis developed over calls for something to be done about the corruption attached to economic liberalisation and a petition being circulated by a prominent dissident asking for the release of political prisoners.<sup>91</sup>

Added impetus was given to the student protests over the slow rate of economic and political reform by the 15 April 1989 death of their favourite former General Secretary, Hu Yaobang, who had previously been expelled from the Party. Many students felt that Hu had deserved greater respect from the Party after his expulsion and students at campuses in Beijing and other cities throughout China participated in mourning activities in the days after his death. These activities soon spread to Tiananmen Square.<sup>92</sup>

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<sup>88</sup> Zhao Ziyang only supported 'limited political liberalisation', consistent with neo-authoritarian views which emphasise that a modernisation process in a developing country requires an authoritarian political system to drive it, not a Western democratic system. This translates to a semi-autocratic political system and semi-market economic system, 'which is a transitional form between the planned economy under the rule of the old authority and the market economy.' See *ibid.* p. 20. See also Andrew J. Nathan, "Introduction: The Documents and Their Significance," in *The Tiananmen Papers*, ed. Zhang Liang, Andrew J. Nathan, and Perry Link (London: Abacus, 2001), p. xxxviii.

<sup>89</sup> Nossal, *The Beijing Massacre: Australian Responses*, p. 18. In 1983 Hu Yaobang and Zhao Ziyang called for increased market incentives and a power struggle within the Party ensued. In 1986 students continued to call for greater freedoms but the government restricted their demonstrations. By 1987 the students had inspired demonstrations across China and Hu Yaobang was ousted as General Secretary of the Party. Zhao Ziyang took his place and the Party launched a campaign against "bourgeois liberalisation". Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*, p. 16.

<sup>90</sup> *Ibid.* p. 19

<sup>91</sup> Nossal, *The Beijing Massacre: Australian Responses*, p. 19.

<sup>92</sup> Nathan, "Introduction: The Documents and Their Significance," pp. 31-32.

On April 18, thousands of students from Beijing University and People's University moved to Tiananmen. By April 24, over twenty universities were on an enforced strike and students in Beijing were asked to write letters to their friends in other parts of the country to explain the aims of the movement.<sup>93</sup>

Expressions in mourning for Hu Yaobang were accompanied by calls for an end to corruption and greater freedoms to demonstrate in Beijing. There were also demands for 'freedom of the press and of speech, democratic elections, and greater transparency in government.'<sup>94</sup> The students, and others who joined the demonstrations, were calling for a more accountable and less corrupt government, and greater freedoms to express their concerns. These calls were thus rooted in domestic political concerns, and while some of the language of these calls reflected the international human rights discourse, this discourse was not the primary motivating factor for the demonstrations.

After the students' demonstrations were labelled as "turmoil" (*dongluan*) by Deng Xiaoping in late April, the students interpreted this to mean that if they ended their protests at that point, they would be severely punished. Therefore they decided to continue their protests until they were labelled as "patriotic" and "democratic", which they believed could lead to their safe withdrawal. This was one of a number of miscommunications between the Chinese government and the students that increasingly led to fewer opportunities for compromise.<sup>95</sup>

50,000 students had descended on Tiananmen Square by the time Soviet President Gorbachev arrived in Beijing in May, and the government responded by moving troops to the Square and withdrawing Zhao Ziyang from public view.<sup>96</sup> When the Chinese government repeatedly delayed holding talks with the demonstrators, some of the students began a hunger strike on May 13. Dialogues with some of the senior Party leaders resulted, but the students' calls for improved government accountability were not met. By the end of May the student protesters had been

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<sup>93</sup> Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*, p. 11.

<sup>94</sup> Nathan, "Introduction: The Documents and Their Significance," p. 34.

<sup>95</sup> *Ibid.* pp. xlii-xliv.

<sup>96</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 181.

joined by office workers and peasants, and demonstrations began in other Chinese cities as Zhao was dismissed from the Party. Organisations independent of the government, such as the Autonomous Federation of Students and the Autonomous Federation of Workers, were formed in attempts to unite students and workers respectively and to achieve some degree of organisation of the demonstrations.<sup>97</sup>

In response to the increased scale of the demonstrations, the Chinese government sent unarmed troops to disperse the protesters in Beijing. On 2 June some of the troops' vehicles were set alight by the protesters and the troops were withdrawn. The next day more troops were sent in resulting in a violent confrontation and dozens of protesters being beaten before troops again withdrew. Later that evening soldiers, police and tanks surrounded Tiananmen Square and they fired into the square early the following morning.<sup>98</sup> The military action resulted in many deaths and a hunt for the leaders of the protest movement.<sup>99</sup> The presence of 1,200 foreign journalists in Beijing, many initially there for President Gorbachev's visit, meant that images of the massacre were beamed throughout the world.<sup>100</sup>

The killings in Beijing were accompanied by a halt to the period of activity independent of the government that had flourished under the modernisation programme. In particular the organisations that had been formed by students and workers throughout the time of the demonstrations 'were banned, large numbers of magazines and journals [were] closed down, and a wide range of ideas and cultural

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<sup>97</sup> Nathan, "Introduction: The Documents and Their Significance," pp. 312-14.

<sup>98</sup> Nossal, *The Beijing Massacre: Australian Responses*, p. 23.

<sup>99</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 181.

<sup>100</sup> For further detail on the Tiananmen Square massacre, and the events leading up to it, see Robert Benewick, "The Tiananmen Crackdown and Its Legacy," in *China in the 1990s*, ed. Robert Benewick and Paul Wingrove (London: MacMillan Press, 1999), 5-20; Anita Chan, "The Social Origins and Consequences of the Tiananmen Crisis," in *China in the Nineties: Crisis Management and Beyond*, ed. David S. G. Goodman and George Segal (New York: Oxford University Press, 1991), 105-30; Kent, "Human Rights: The Changing Balance-Sheet"; Kim, "Thinking Globally in Post-Mao China"; Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*. Nossal, *The Beijing Massacre: Australian Responses*; Harrison E. Salisbury, *The New Emperors* (London: Harper Collins, 1992); Lawrence R. Sullivan, "The Chinese Communist Party and the Beijing Massacre: The Crisis in Authority," in *China in the Nineties: Crisis Management and Beyond*, ed. David S. G. Goodman and George Segal (New York: Oxford University Press, 1991), 87-104; Anne F. Thurston, "Memory and Mourning: China Ten Years after Tiananmen," *SAIS Review* XIX, no. 2 (1999), 61-79; Andrew G. Walder, "Workers, Managers, and the State: The Reform Era and the Political Crisis of 1989," in *The Individual and the State in China*, ed. Brian Hook (Oxford: Clarendon Press, 1996), 43-69.

products prior to the crackdown [were] subject to denunciation.<sup>101</sup> Other repressive measures such as ‘arbitrary arrests, summary executions, forced interrogation’ and martial law continued in China throughout 1989.<sup>102</sup>

According to the characteristics of the spiral model, the international dissemination of the events of the Beijing demonstrations and the subsequent killings and repressive measures progressed China into phase two of the model. With this dissemination, the lobbying of international human rights bodies and democratic governments to respond to the Chinese government’s actions could commence.

### **Conclusion**

China commenced phase one of the spiral model after the significant increase in human rights abuses of the “anti-rightist” campaign from 1957 to 1958. This and other Chinese government campaigns over the following years resulted in the human rights abuses of millions of Chinese. But the Tiananmen Square massacre in June 1989 was the first time that human rights abuses in China received a widespread international response. The demonstrations in Beijing and other Chinese cities in 1989 were anguished calls to the Chinese leadership to reduce corruption and deliver the economic benefits promised through the modernisation programme. They were also calls for the recognition of citizens’ rights to express their concerns. While these calls were not primarily motivated by the international human rights discourse, they did reflect international norms such as the civil and political rights of freedom of expression, the right to participate in democratic elections, and the economic right to a decent standard of living. But the violent response initiated by the CCP leadership on 4 June 1989, and the repressive actions taken over the following months, reflected a government that was not yet ready to embrace the civil and political rights of its citizens. The Chinese government’s participation in the global human rights discourse up until June 1989 had clearly not been reflected in its practices in Beijing that year.

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<sup>101</sup> Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China*, p. 268.

When the Chinese government sanctioned the killings in Beijing that became known as the Tiananmen Square massacre, China was coming to the end of phase one of the spiral model. The demonstrations and ensuing violence were recorded by the international media, allowing for these images to be beamed immediately throughout the world. Subsequent abuses were filtered out by some of the protest leaders who fled the country and documented by human rights NGOs. This dissemination placed the human rights abuses of the Chinese government firmly on the international agenda in 1989. Prior to this, democratic states had largely ignored reports of human rights abuses in China, despite the efforts of some NGOs. These states preferred to place their foreign policy priorities on Cold War concerns and developing trade relationships with China. But with the Tiananmen Square massacre, many democratic states found they could not ignore the graphic images and reports of events in Beijing and their citizens' calls for them to do something. This was a result of the effective international dissemination of human rights abuses in Beijing, and meant that China progressed to phase two of the spiral model, the denial phase.

According to Risse et al., in the second phase of the model the lobbying of international human rights organisations and democratic states commences, leading to public expressions of opposition to the human rights abuses carried out by the target state. The target state's responses in this phase include expressions of denial of the allegations and/or the validity of international human rights norms. These characteristics of phase two were evident in the responses of the transnational human rights regime to the abuses in China in 1989, and some of the Chinese government's reactions to outside condemnation of the Tiananmen Square massacre. The next chapter will further explore these responses and reactions, as well as the characteristics of phase two.

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<sup>102</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 194.

## **Chapter Four - Phase Two: Denial 1989-1991**

### **Introduction**

From June 1989 to early 1991 the responses of the actors in the transnational human rights network to reports of human rights abuses in China, and the reactions of the Chinese government to these responses, were largely consistent with the characteristics of the spiral model's phase two. According to Risse et al., a target state is considered to have reached phase two when information on its human rights abuses is disseminated internationally and international human rights organisations and democratic states begin to be lobbied. The presence of the international media in Beijing from April 1989 as events unfolded in Tiananmen Square meant that much of the initial dissemination of the demonstrations and subsequent abuses of the massacre was immediate and widespread. Millions of citizens of democratic states were able to see the disturbing images of abuse. Thus the role of international human rights NGOs in disseminating information to such citizens and their states in this early stage of phase two was largely achieved for them. Soon after witnessing these images of abuse, citizens of democratic states began to pressure their own governments to "do something". Responses from these states were forthcoming and resulted in public denunciations of the Chinese government's actions and largely symbolic sanctions.

In phase two the target state usually reacts to outside criticism and any punitive actions taken against them by denying the allegations of abuse, denying the validity of international human rights norms, invoking the state sovereignty principle, and/or accusing other states of using double standards. Anti-colonial or imperialist language is also sometimes used by target states in the denial phase. Many of the Chinese government's reactions to the criticisms of other states in the wake of the massacre were consistent with these responses, with the exception of the validity of international human rights norms which was not generally denied. However, according to Risse et al., despite being characterised by responses of denial from the target state, phase two is still considered to be an important part of the socialisation process because the target

state's responses indicate an acknowledgement and concern that its international reputation has been harmed. The target state also does not usually completely reject the concept of human rights.

Risse et al. concluded that the dominant process of socialisation in the denial phase is instrumental adaptation, characterised by a target state making some concessions in response to domestic and outside criticisms, possibly making bargains with critics and/or even beginning to engage in a human rights dialogue. These activities are consistent with rational choice theories that assume humans act to achieve goals that will maximise their utility. Therefore, in the second phase of the model a target state is expected to take actions in response to the transnational human rights network to achieve its goal of quelling the criticisms, which may include some concessions, 'without necessarily believing in the validity of the norms'<sup>1</sup>. After reviewing their case studies, Risse et al. considered that the socialisation process of engaging in argumentative discourses tends to be dominant in the later phases of the model. This is where both a target state and its critics may challenge the validity claims of exchanges of information, and arguments may reflect the identities and interests of the actors. However, in some of the cases, along with instrumental adaptation the process of argumentation was also evident in the denial phase and during the transition to the tactical concessions phase.<sup>2</sup> Both the instrumental adaptation and argumentation processes of socialisation were evident in China's denial phase and in the transition to tactical concessions.

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<sup>1</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999) p. 12.

<sup>2</sup> For example Risse and Ropp observed that Morocco's King Hassan II responded to argumentation from his critics since they were able to challenge his own professed identity of a monarch 'who cares about his people'. Thomas Risse and Stephen C. Ropp, "International Human Rights Norms and Domestic Change: Conclusions," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 251-52.



A target state is considered to have moved out of the denial phase once it begins to make significant tactical concessions in response to its critics.<sup>3</sup> The Chinese government lifted martial law in Beijing in January 1990 and in Lhasa in May 1990, and also released some political prisoners the same year. However, China began to make significantly more concessions in 1991, including reduced sentences given to those tried in early 1991 for their role in the Tiananmen Square demonstrations, increased discussions being allowed on human rights within China, the release of the first White Paper on human rights, and invitations to human rights delegations from various countries to visit China. Therefore, China's denial phase is considered to have ended by early 1991.

This chapter will focus on the responses and actions of both the transnational human rights network and the Chinese government throughout the denial phase that covers the period from June 1989 until early 1991. The transnational human rights network was comprised of international human rights NGOs, various democratic states, UN human rights mechanisms, Chinese citizens and groups opposed to their leadership's actions, dissidents who had fled China after the massacre, and overseas Chinese students and NGOs. The reporting of the international media at the time of the massacre provided the initial impetus around which this network galvanised. Not even states dominated by realist politicians could ignore the media images of the massacre and the subsequent outcries of their citizens. International NGOs subsequently took

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<sup>3</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 23-24. Some of the states examined by Risse et al. were considered to have entered the tactical concessions phase when the first concession was made. In contrast, Morocco and Indonesia were considered to have entered this phase when significantly more concessions were made than just a few isolated events such as the signing of a UN Convention (in Morocco's case) or the appointment of a token commission to investigate the violent killings in a minority province (as Indonesia did). The latter consideration will be adopted for China, that is, the time of its entry to phase three will be taken to be when it began to make significant tactical concessions. Further discussion on China's transition to phase three can be found towards the end of this chapter. See Sieglinde Granzer, "Changing Discourse: Transnational Advocacy Networks in Tunisia and Morocco," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 122-24. Anja Jetschke, "Linking the Unlinkable? International Norms and Nationalism in Indonesia and the Philippines," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 146-56.

up the dissemination of China's human rights abuses and their activities will be described first in this chapter. Various democratic states' responses will then be explored, including the US as the sole superpower by the early 1990s, and Australia in order to illustrate the dilemmas faced by and responses of a middle power. In addition, this chapter will detail the Chinese government's repressive measures after the massacre and their responses to the efforts of the transnational human rights network throughout the denial phase. A target state's domestic opposition groups are pivotal within the transnational regime in terms of prospects for future progression through the spiral model. Therefore, the experiences of domestic groups in opposition to the Chinese government's human rights practices during this denial phase will also be highlighted. Finally, the dominant forms of socialisation evident in China's denial phase and China's transition from the denial phase to the tactical concessions phase of the spiral model will be explored.

### **The Responses of International Human Rights NGOs**

Soon after the June 1989 massacre in Beijing, reports on human rights abuses in China were produced by AI, Asia Watch, and the International League for Human Rights (ILHR). These NGOs researched, documented and publicised cases of human rights abuses in China to their members, UN human rights bodies, states, and to the general public via the media. For example, AI and ILHR documented at this time that the Chinese government was carrying out the abuses of

the unrestrained use of lethal weapons against unarmed civilians making legitimate requests for political and social change; the killing of large numbers of civilians;...the arbitrary arrest and detention of many thousands involved in non-violent action; the torture and ill treatment of detainees; the failure of Chinese trial procedures to accord with accepted international standards; the occurrence of expedited capital sentences and executions and of extra-legal executions and secret trials; the suppression of student groups and workers organisations, thereby violating freedom of association and assembly; and the

violation of the freedoms of expression, of the press, and of access to information.<sup>4</sup>

In addition, two weeks after the massacre the International Confederation of Free Trade Unions (ICFTU) highlighted to the International Labour Organisation (ILO) that the Chinese government had violated the rights of trade unions.

NGOs considered that the initial responses of democratic states to the massacre had been too weak and began lobbying for tougher measures to be adopted. For example, Asia Watch released an open letter to the US administration calling for actions such as the US Ambassador to be recalled and China's Most Favoured Nation trading status to be revoked.<sup>5</sup> This NGO continued to be particularly active in lobbying the US Congress for further pressure to be placed on China throughout 1990 and 1991. Asia Watch also focused more of its efforts on human rights abuses in China and Tibet than in any other Asian country throughout 1990 and 1991.<sup>6</sup>

Both AI and Asia Watch continued to publish reports on China and lobby the UN human rights bodies throughout 1990 and 1991. ICJ joined AI and Asia Watch to ensure China's human rights abuses were discussed at length at the August 1989 meeting of the UNCHR Sub-Commission. The following year AI, ILHR and the International Committee of Health Professionals for Health and Human Rights contributed to the substance of the report submitted to the UNCHR meeting by the UN

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<sup>4</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong: Oxford University Press, 1993), p. 187.

<sup>5</sup> Harry Harding, *A Fragile Relationship: The United States and China since 1972* (Washington DC: Brookings Institution, 1992), p. 230

<sup>6</sup> Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), p. 124. Human Rights Watch/Asia, *China: Human Rights Developments* (1990 [cited 16 June 2003]); available from [http://www.hrw.org/reports/1990/WR90/ASIA.BOU-04.htm#P241\\_56227](http://www.hrw.org/reports/1990/WR90/ASIA.BOU-04.htm#P241_56227). Human Rights Watch/Asia, *China and Tibet* (1991 [cited 16 June 2003]); available from [http://www.hrw.org/reports/1992/WR92/ASW-05.htm#P224\\_76659](http://www.hrw.org/reports/1992/WR92/ASW-05.htm#P224_76659).

Secretary General.<sup>7</sup> Members and local branches of AI also lobbied their own states to increase the pressure on China to improve its human rights practices.<sup>8</sup>

An important source of information for these international human rights NGOs throughout the 1989 to 1991 period were the Chinese studying abroad at the time of the massacre, some of whom subsequently formed a number of NGOs to campaign for human rights in China. These groups were more able to provide information on human rights abuses in China to international human rights NGOs than activists within China. This reflected the repressive measures imposed on many supporters of the demonstrations, making links with human rights activists within China very difficult to maintain. It was dangerous for Chinese citizens to have links to international human rights NGOs as they ran the great risk of being imprisoned, tortured and/or executed. The Chinese government also refused to allow members of international human rights NGOs to enter China to carry out research.<sup>9</sup>

Despite the difficulties involved with establishing links with human rights activists within China, international human rights NGOs devoted a significant amount of their resources and efforts to the human rights practices of the Chinese government in the aftermath of the Tiananmen Square massacre. These organisations provided an important summary of information on human rights abuses in China to UN bodies, states, the NGOs' members and the media. Their reports and lobbying became a particularly important source of information for other states after the initial media coverage of the massacre faded.

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<sup>7</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 118, 120.

<sup>8</sup> Amnesty International Secretariat Official, Interview, London, 30 March 2001.

<sup>9</sup> Amnesty International Secretariat Official, Interview, London, 16 August 2004.

## The Responses of Democratic States to the Massacre

Due to the massive media coverage of events in Tiananmen Square on 4 June 1989, many democratic states, 'whose identities are connected with a respect for human rights',<sup>10</sup> found that they could not ignore such abuse.<sup>11</sup> Given the subsequent pressures placed on them by their citizens and international NGOs, many of these states responded immediately to the massacre by issuing public statements of concern and announcing that sanctions would be applied. Largely following the lead of the US government, the responses of democratic states resulted in a relatively coordinated and consistent initial response to the Chinese government. This included the imposition of largely symbolic sanctions, although the disruption to the flow of aid and loans to China that resulted did have an economic cost for China.

### US Government Responses

One day after the events in Beijing, the Bush administration suspended sales of weapons to China and meetings between Chinese and US military leaders, and announced that Chinese students requesting asylum in the US would be given a 'sympathetic review'.<sup>12</sup> After pressure from international NGOs and consulting with other states, on 20 June the US government added further sanctions including a ban on

all exchanges with the Chinese government above the level of assistant secretary, ...[a halt on] the implementation of the Sino-American agreement on nuclear cooperation, and ...[instructions to] representatives at the World Bank

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<sup>10</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 114.

<sup>11</sup> Ann Kent, "Human Rights in Australia-China Relations, 1985-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), p. 59. Ann Kent, "Human Rights," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), p. 173.

<sup>12</sup> Human Rights Watch/Asia, *Report on China 1989* (1989 [cited 16 June 2003]); available from <http://www.hrw.org/reports/1989/WR89/China.htm#TopOfPage>.

and [Asian Development Bank] to postpone considerations of new loans to China.<sup>13</sup>

By the end of June the US Congress had passed a bill by 418 to 0 votes that the President could only lift the sanctions if there had been 'progress on a program of political reform' in China, or if there were 'national security' reasons for doing so. The President, with the Senate, managed to broaden the bill so that sanctions could be lifted if it was deemed to be in the 'national interest'.<sup>14</sup> The US decision in July to proceed with the sale of three Boeing jetliners to China, the approval of 42 Chinese military officials to resume work upgrading Chinese fighter planes in October, and the decision in December to export communications satellites to China, illustrated the ease with which these sanctions could be weakened.<sup>15</sup>

Despite the early easing of some of the sanctions, the Bush administration still felt the need to further communicate to China that it should not be isolated post-Tiananmen Square. To communicate this a Bush administration delegation met with the Chinese government in secret on 4 July, and again in December.<sup>16</sup> The US Secretary of State also met with the Chinese Foreign Minister in July and September 1989, and President Bush opposed the Congress bill that would have allowed Chinese students to remain in the US. By January 1990, after the Chinese government had lifted martial law and claimed to have released 573 prisoners who had been demonstrators, the US ceased their total opposition to World Bank loans to China by supporting loans that would meet 'the basic needs of the Chinese people'.<sup>17</sup> When it came time to consider the renewal of MFN trade status for China, even the Congress hesitated to damage trade relations with China over human rights concerns. Perhaps given that there was still some significant support for a link between human rights and MFN renewal, the

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<sup>13</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 115.

<sup>14</sup> *Ibid.* pp. 115-16.

<sup>15</sup> Human Rights Watch/Asia, *Report on China 1989*.

<sup>16</sup> *Ibid.*

<sup>17</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 124-26. Human Rights Watch/Asia highlighted that the Chinese government did not release any

Chinese government claimed to have released 211 more prisoners<sup>18</sup>, allowed Fang Lizhi and his wife Li Shuxian to leave the sanctuary they had sought at the US embassy, and agreed to buy Boeing aircraft and US wheat. By late 1990 the MFN status had been renewed but the annual renewal terms conditional on human rights remained.<sup>19</sup>

The following year debate between Congress and the executive was evident once again on whether to renew China's MFN status with or without conditions.<sup>20</sup> However, after Iraq invaded Kuwait on 2 August 1990, US-China relations markedly improved as China's support for UN resolutions on Iraq as a permanent member of the UN Security Council was needed. China's Foreign Minister Qian Qichen was invited to Washington in November 1990 for discussions on the Gulf. This was a significant invitation and would have been seen as a reward to the Chinese government. Despite the improvement in the US-China relationship, President Bush was reported to have raised the contentious issue of human rights with the Foreign Minister during his visit. In addition, a dialogue on human rights between the two states continued with a visit by the US Assistant Secretary of State for Human Rights and Humanitarian Affairs to China in December for three days.<sup>21</sup>

#### Responses of Other Democratic States

Other democratic states applied similar sanctions to those of the US government in the aftermath of the massacre. The European Community (EC) member states applied joint sanctions including the suspension of visits by high level ministers, military equipment sales and government guaranteed loans. In addition, 10,000 Chinese

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names of those who had allegedly been released from detention, and neither were inspections of prisons allowed. Human Rights Watch/Asia, *China: Human Rights Developments*.

<sup>18</sup> However, only six names were released by the Chinese authorities and, once again, no inspections of prisons were allowed. Ibid.

<sup>19</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 126-27. Ann Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," *Human Rights Quarterly* 23, no. 3 (2001), p. 593.

<sup>20</sup> Human Rights Watch/Asia, *China and Tibet*.

<sup>21</sup> Human Rights Watch/Asia, *China: Human Rights Developments*.

students were allowed to extend their visas in EC countries.<sup>22</sup> The Japanese government responded to the massacre by suspending high level official visits, ending negotiations on a loan to China of \$US5.5 billion and placing a freeze on aid, but was reluctant to condemn the events in China. This reluctance was a reflection of Japan's concern that China should not be isolated as this would threaten its economic development and thus its economic relationships with countries such as Japan, and could also increase tension in the East Asian region.<sup>23</sup>

Like the US, and despite their sanctions, some of the EC states and Japan were also concerned that China should not be isolated. Some of the individual states did not follow the EC coordinated response after martial law had been lifted in Beijing in January 1990. For example, only one month later both the French and Italian governments offered loans to the Chinese government. By October 1990 the EC members had removed their joint sanctions on China, except those concerning military sales and contacts.<sup>24</sup> The Japanese government tended to follow US conciliatory gestures with their own and seemed to be communicating to the Chinese government that it wanted to ensure that informal links be maintained until relations could be normalised as soon as possible. Indeed, at the G7 summit in July 1990 the Japanese government urged other states to relax their sanctions against China. A partial relaxation was subsequently agreed to at the summit. Soon after the G7 summit, and Fang Lizhi's release, Japan announced that it would renew negotiations on the loan and discussions of aid to China, effectively normalising the Sino-Japanese relationship.<sup>25</sup>

The responses of the governments of Norway, the Netherlands and Canada to the massacre highlight the importance placed on economic considerations in the foreign

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<sup>22</sup> David Shambaugh "China and Europe," *Annals of the American Academy of Political and Social Science* January (1992) p. 110.

<sup>23</sup> Harding, *A Fragile Relationship: The United States and China since 1972*, p. 263. K.V. Kesavan, "Japan and the Tiananmen Square Incident: Aspects of the Bilateral Relationship," *Asian Survey* 30, no. 7 (1990), p. 671.

<sup>24</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 129.



policies of democratic states. These governments had been known for their advocacy of international human rights leading up to the massacre, but were consistent with other democratic states in being careful not to isolate China with their responses. All three governments had pursued trade opportunities with China and had increased the amount of trade with China leading up to the massacre. Thus these governments would have been mindful of their own economic interests and China's likely reprisals to any responses. Their responses to the massacre, consistent with those of other democratic states, were therefore largely symbolic and only taken in the knowledge that other states were taking similar actions.<sup>26</sup>

Prior to 1989 the Chinese government had threatened various states with economic reprisals if actions offending the Chinese government's concerns continued. Some of these threats resulted in actions being taken in China's favour. For example, in the early 1980s the Dutch wanted to export four submarines to Taiwan in an attempt to keep the Dutch merchant shipbuilding industry afloat. China's response was a diplomatic note to the Dutch government labelling such a sale as 'provocative' and 'aggressive'. The contract went ahead and China did not respond with economic punishment but did downgrade its diplomatic relations with the Netherlands. However, fears of further retaliation were enough to stop further submarine sales from the Dutch to Taiwan.<sup>27</sup>

As a significant trading partner to many states and a permanent member of the UN Security Council, China's views have mattered to other states, particularly to small and medium sized powers. As a medium power Australia falls into this category of states and its responses to the Tiananmen Square massacre, and concerns about China's reactions, correspond with those of the states described above. Australia's

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<sup>25</sup> Harding, *A Fragile Relationship: The United States and China since 1972*, p. 264. Kesavan, "Japan and the Tiananmen Square Incident: Aspects of the Bilateral Relationship," p. 674.

<sup>26</sup> David Gillies, *Between Principle and Practice: Human Rights in North-South Relations* (Montreal: McGill-Queens University Press, 1996), pp. 159, 168, 170. Despite this, there were economic costs to China as a result of the sanctions, including a decrease in new bilateral aid to China over several years. One estimate of this was a loss to China over four years of \$US11 billion in aid. See Jack Donnelly, *International Human Rights*, Boulder, Colorado: Westview Press, 1998, p. 120 cited in Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 117.

responses provide an insight into the care that many democratic states took to try to ensure their actions met the concerns of their citizens and reflected their identities as supporters of international human rights norms, as well as avoided the isolation of China.

### Australian Government Responses

As a democratic state, Australia's identity has reflected a concern for human rights. Australia's early involvement in the drafting of the UN Charter and adoption of the UDHR, as well as the development of at least some place for human rights in Australia's foreign policy by the late 1980s, reflected this concern. Around the time of the Tiananmen Square massacre, a further expression of Australia's identity became evident. The Australian government's official rhetoric on human rights began to centre on the concept of "good international citizenship" which required a foreign policy that would emphasise the importance of international institutions and rules that would allow for collective action against human rights abusers.<sup>28</sup>

Reflecting this rhetoric, human rights concerns at least became more prominent in the Sino-Australian relationship after the massacre. Consistent with the approaches of other democratic states, and in response to domestic expressions of concern, the Australian government spoke out against the actions of the Chinese government and imposed sanctions. However, as with other democratic states, Australia was also

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<sup>27</sup> Gillies, *Between Principle and Practice: Human Rights in North-South Relations*, p. 143.

<sup>28</sup> Tim Dunne and Nicholas J. Wheeler, "Blair's Britain: A Force for Good in the World?" in *Ethics and Foreign Policy*, ed. Margot Light and Karen E. Smith (2002), p. 171. Gareth Evans, *Human Rights and Australian Foreign Policy. Keynote Address by Senator Gareth Evans, Minister for Foreign Affairs and Trade, to the National Annual General Meeting of Amnesty International Australia, Sydney, 19 May 1989* (1989 [cited 5 December 2001]); available from <http://members.aol.com.garethmp/HRAFP.html>. Gareth Evans, *Human Rights and the New World Order. Speech by Senator the Hon Gareth Evans QC, Minister for Foreign Affairs of Australia, to the World Conference on Human Rights, Vienna, 15 June 1993*. (1993 [cited 5 December 2001]); available from <http://members.aol.com/Eamonev/VIENNA.htm>. Nicholas J. Wheeler and Tim Dunne, "Good International Citizenship: A Third Way for British Foreign Policy," *International Affairs* 74, no. 4 (1998), p. 855.

concerned that some relationship with China should continue and ensured that this was communicated to the Chinese government.

The Australian public's immediate responses to the massacre were emotional and resulted in rallies and memorial services that were reasonably well attended. Reflecting the public's responses, the Australia government's first official response was Prime Minister Hawke expressing that he was to 'deeply regret and deplore' the massacre. However, he deliberately avoided using the stronger word "condemn" so as not to appear overly critical to the Chinese. The Australian government went on to cancel future intergovernmental events such as official visits, extended the visas of the 15,000 Chinese students in Australia by one year and canceled a naval goodwill visit to Shanghai. Calls for trade sanctions were rejected because of fears they would isolate China and most of the Australian development assistance to China continued. Australia's ambassador to China was also not withdrawn.<sup>29</sup>

Calls by Australian citizens and human rights NGOs for a stronger response to China increased as the Chinese government began executing protesters found guilty at trials from 16 June. One month later the Department of Foreign Affairs and Trade released its review of Australian policy regarding China warning that any isolation of China could harm Australia's interests, particularly since trade between the two nations was good. Guidelines were released about future relations between China and Australia and these included that continued representations would be made by the Australian government concerning human rights violations; ministerial, parliamentary, party and security visits would be cancelled for 1989; only economic contacts would be made at the senior level in 1989, there would be an indefinite suspension of defence visits at the highest level, decisions on new development assistance proposals would be postponed; and the government would support plans by international financial institutions to delay considering new loans to the Chinese government.<sup>30</sup> Thus

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<sup>29</sup> Kim Richard Nossal, *The Beijing Massacre: Australian Responses* (Canberra: Australian National University, 1993), pp. 25, 29, 31.

<sup>30</sup> Ibid. p. 39. Australian International Development Assistance Bureau, "Australia China: Development Cooperation - the Contribution of Official Development Assistance to Australia's Relations with

Australia's sanctions against China were consistent with those applied by other democratic states and the EC.<sup>31</sup>

Throughout the period of sanctions the Australian government took great care to ensure China knew it wished to maintain a 'long-term cooperative relationship'.<sup>32</sup> A significant part of this concern was due to the Australian government's desire that trade and economic relations with China should largely proceed as normal.<sup>33</sup> Actions taken to minimise disruptions to trade included the Australian Wheat Board's visit to China soon after the massacre where its officials 'emphasised to the Chinese that from [their] organisation's point of view and from a business point of view it was important that business continued with minimal disruptions'.<sup>34</sup> No substantial impact on wheat exports to China was evident at this time. However, it was reported that the Chinese government considered applying its own economic sanctions against Australia. Whether the Chinese government actually did is not certain but Chinese imports of Australian goods, particularly wool, reportedly declined in the aftermath of 4 June 1989.<sup>35</sup> Despite this, the trade figures from 1990-1991 showed that trade between Australia and China continued to increase, indicating that trade relations were not

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China", (Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, November 1994, Official Hansard Report, 6 February 1995, 1994), p. 1253.

<sup>31</sup> Ibid. p. 55.

<sup>32</sup> Colin Mackerras, "Australia and China," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), p. 216.

<sup>33</sup> These concerns would no doubt have been magnified when the Chinese Foreign Minister stated to Australian Foreign Minister Evans during the imposition of sanctions that 'we maintain a friendship only from common interests. We can live without each other as China has done for many thousands of years'. From Garry Woodard, "Australia and China," in *Australia and Asia*, ed. Mark McGillivray and Gary Smith (Melbourne: Oxford University Press, 1997), p. 150.

<sup>34</sup> Australian Wheat Board, "Australia's Relations with the People's Republic of China," (Canberra: Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, 16 November 1994, Official Hansard Report, 17 February, 1995), p. 1658.

<sup>35</sup> From East Asia Analytical Unit, DFAT, *Australia and North-East Asia in the 1990s: Accelerating Change*, Canberra: Australian Government Publishing Service, 1992, 281-283, cited in Peter Van Ness, "Australia, Asia and Human Rights Diplomacy," *Current Affairs Bulletin* Dec 1993/Jan 1994 (1994), p. 28. In contrast, Stephen FitzGerald described the Chinese government's reaction to the Australian government and public's responses to massacre as 'extremely mild'. China had a stronger reaction to those nations where its interests were more deeply affected, for example, Hong Kong and the US. See Stephen FitzGerald, *Is Australia an Asian Country?* (St Leonards: Allen and Unwin, 1997), p. 31.

harmed by Australia's sanctions.<sup>36</sup> This would have been of much relief to those in Australia who considered China's economic growth from 1991 to be a solution to many of the economic problems that had emerged with the structural adjustments of the Australian economy.<sup>37</sup>

In response to the Chinese government lifting martial law in Beijing in January 1990, the Australian government eased the ministerial visit bans. But due to continuing concerns about the human rights situation in China, in June 1990 the 15,000 Chinese students in Australia who had had their visas extended by one year after the massacre were granted a further four year extension. These students were eligible under this visa to apply for their spouses and dependent children to be able to enter Australia for the duration of their extended visa.<sup>38</sup> In total, approximately 16,000 Chinese citizens applied to Australia for refugee status from 1990 to 1992.<sup>39</sup> In February 1991, after the US decision to renew China's MFN status at the end of 1990, which had been preceded by the claimed release of 211 prisoners,<sup>40</sup> the Australian government lifted its remaining sanctions against China except for those concerning defence visits and sales.<sup>41</sup>

The Australian government's rhetoric on the need to be a good international citizen reflected a state that recognised the growing power of the transnational human rights network and the good intentions of some of its officials. Australia's initial sanctions

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<sup>36</sup> Mackerras, "Australia and China", p. 216.

<sup>37</sup> Ann Kent, "Australia-China Relations, 1966-1996: A Critical Overview," *Australian Journal of Politics and History* 42, no. 3 (1996), p. 370. Australian trade with Hong Kong and Taiwan also significantly increased. By the early 1990s the share of Australian exports to China, Hong Kong and Taiwan became more than the share of exports to the European Community or the United States. See Ross Garnaut, "Sino-Australian Economic Relations, 1983-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), p. 77.

<sup>38</sup> This affected 19,000 Chinese nationals and 9,500 members of their families who had been successful in applying to join their relatives in Australia. In November 1993 the Australian government announced that those Chinese nationals who were in Australia on 20 June 1989 would be given permanent residence status. Department of Immigration and Ethnic Affairs, "People's Republic of China", (Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, 9 December 1994, Official Hansard Report, 27 February 1995, 1995), pp. 1685, 1690.

<sup>39</sup> *Ibid.* p. 1686.

<sup>40</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 126-27.

and official responses did increase the priority of human rights concerns in its foreign policy with China. However, as with the responses of other middle powers, the actions and rhetoric that Australia had adopted by 1991 reflected a foreign policy that would not sacrifice trade and economic considerations for human rights. Even the US as the great power in the international arena showed that its foreign policy with China would not be dominated by human rights concerns, as evidenced by the early weakening of its sanctions. The sponsorship of resolutions at the UNCHR in 1989 and 1990 by some of these democratic states was perhaps their strongest expression of disapproval over China's human rights record, given that these were the first resolutions regarding the human rights practices of a permanent member of the UN Security Council.

### UN Responses

Various UN bodies took actions in response to China's human rights abuses from 1989 to 1991. In the wake of the massacre, the UN Secretary General called for the Chinese government to exercise 'utmost restraint'. The UN Special Rapporteur on Summary and Arbitrary Executions also publicly called for restraint to be exercised.<sup>42</sup> Other UN bodies that highlighted concerns about human rights in China after the massacre included the Special Rapporteur on Torture, the Committee Against Torture, the Special Rapporteur on Summary or Arbitrary Executions, and the Working Group on Enforced or Involuntary Disappearances. In a coordinated effort, NGOs applied pressure at the August 1989 meeting of the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities to get a resolution condemning China's actions adopted. Chinese diplomats lobbied the Sub-Commission's representatives and Beijing ambassadors to prevent this, resulting in a secret ballot being used for voting for the first time. The final wording of the resolution was mild and the resolution passed fifteen votes to nine with those voting in favour including both

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<sup>41</sup> Mackerras, "Australia and China", p. 217.

<sup>42</sup> John Tessitore and Susan Woolfson (eds.), *Issues before the 44th General Assembly of the United Nations* (Lexington: Lexington Books, 1990), p. 158.

developed and developing countries. This was a significant event in the history of the UN human rights mechanisms as this was the first resolution critical of a permanent member of the UN Security Council's human rights abuses, and thus the first time that a permanent member had been publicly shamed in this forum.<sup>43</sup>

In February 1990 the ILO Governing Body expressed concerns over the mistreatment, arrests and deaths of leaders and members of the Workers' Autonomous Federation in China and called for the Chinese government to provide information on these instances of abuse. Several months later, the ILO again called for the Chinese government to provide the information it had requested and in October some of the information was forthcoming.<sup>44</sup> The same year the UN Committee Against Torture reviewed the Chinese government's report submitted to it and concluded that further detail needed to be provided to the Committee by the end of that year.<sup>45</sup> The Special Rapporteur on Torture also appealed to the Chinese government in 1990, concerning the alleged torture of a number of Tibetans.<sup>46</sup> But the most significant UN action regarding China's human rights abuses in 1990 was the UNCHR consideration in early 1990 of the Sub-Commission's resolution on China.<sup>47</sup>

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<sup>43</sup> The resolution called for information to be provided to the UNCHR's early 1990 meeting on 'the events in China and their impact in the domain of human rights'. John Tessitore and Susan Woolfson (eds), *Issues before the 45th General Assembly of the United Nations* (Lexington: Lexington Books, 1991), p. 153. See also Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 117-20. Ann Kent, *China, the United Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999), pp. 56-59.

<sup>44</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 187, 215-16.

<sup>45</sup> Tessitore and Woolfson (Eds.), *Issues before the 45th General Assembly of the United Nations*, pp. 154-55.

<sup>46</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 107.

<sup>47</sup> The UNCHR was established in 1946 to be the principal UN body for the promotion and protection of human rights. It is comprised of state representatives that are elected by the Economic and Social Council. The UNCHR has evolved from its initial focus on drafting international human rights instruments to also focus on particular rights and the human rights records of particular states. This includes the UNCHR's Sub-Commission, comprised of elected independent experts and set up to allow NGOs as well as state officials to raise allegations of human rights abuses to this forum. During the UNCHR's annual meeting sessions, resolutions on particular rights and the human rights records of particular states can be sponsored and debated at the Commission. These have provided a public form of pressure on states that have been the subject of resolutions. Once a resolution is sponsored, a no-action motion may also be sponsored. If this motion is passed by a majority of votes of UNCHR members, the resolution is prevented from proceeding to the voting stage. A passed no-action motion thus effectively prevents any further official debate at the UNCHR on the resolution. David P. Forsythe, *Human Rights in International Relations* (Cambridge: Cambridge University Press, 2000), pp. 69-70.

With Australia, and Japan to a lesser extent, leading the way, a relatively mild resolution was drafted at the UNCHR session. Sixteen other states co-sponsored the resolution, including twelve EC members, the US, Sweden, Norway and Canada.<sup>48</sup> The resolution acknowledged the UN Secretary General's report on human rights in China, produced as an outcome of the Sub-Commission's resolution, as well as the release of 573 prisoners who had been detained after the massacre. In addition, it requested further information on human rights in China for the following year's UNCHR session. It was thought that the resolution stood a good chance of passing, however, spurred on by China's state sovereignty objections and the lack of effective lobbying by Western states, Pakistan proposed a no-action resolution. The Chinese were anticipating strong support from developing countries but, despite the no-action motion passing and effectively blocking a vote on the resolution, it was only by a narrow margin.<sup>49</sup> Even with the success of the no-action motion, the decision by the democratic states to sponsor a resolution at the UNCHR was still a significant expression of disapproval directed at the Chinese government. The resolution generated a lot of media coverage<sup>50</sup> and drew a response from the Chinese that was also significant in terms of the effort they put into dealing with this international criticism.

In August 1990 the UNCHR Sub-Commission once again focused on China and called for its government to respect the human rights of those in Tibet and for this issue to be considered at the next UNCHR meeting.<sup>51</sup> However, by late 1990 other priorities began to dilute international concerns over human rights in China. Gulf War considerations were a leading factor in the process of dropping the Sub-Commission's

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<sup>48</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 214.

<sup>49</sup> Other supporters of the no-action motion were China, the former Soviet Union, the Ukraine, Cuba, Iraq, Cyprus, Yugoslavia, Sri Lanka, India, Bangladesh and six African countries. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 121. Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 215. Kent *China the United Nations, and Human Rights: The Limits of Compliance*, p. 62.

<sup>50</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 121.

<sup>51</sup> United Nations, *Yearbook of the United Nations 1991* (Dordrecht, the Netherlands: Martinus Nijhoff, 1991), p. 606.



recommendation and gaining China's support for not opposing a resolution on Iraq.<sup>52</sup> These considerations carried through to the early 1991 meeting of the UNCHR, resulting in no resolution on China being sponsored. It was left to other UN mechanisms to highlight the human rights abuses of China in 1991, with the Special Rapporteur on Summary and Arbitrary Executions, the Committee Against Torture and the Special Rapporteur on Torture all communicating their concerns to the Chinese government and mentioning China in their 1991 reports.<sup>53</sup>

### **The Chinese Government's Actions and Responses to the Transnational Human Rights Network**

In the wake of the massacre, internally the Chinese government took steps to try to eradicate its perceived opposition. These measures were joined by attempts to alleviate the suffering generated by the economic development programmes. The international condemnation of China's actions in Tiananmen Square meant that the Chinese government also felt compelled to direct efforts at dealing with these criticisms.

Immediately following the Tiananmen Square massacre, the CCP government initiated repressive measures across China designed to completely rid the country of political unrest. The Party commenced a propaganda campaign attempting to discredit all who had participated in the demonstrations. Organisers of the demonstrations were described as 'foreign agents' or counterrevolutionaries who were out to overthrow the CCP and return China 'to the pre-1949 days of foreign domination and civil war.'<sup>54</sup> The military conducted searches and patrolled Beijing's streets in order to arrest those suspected of being involved in the demonstrations. Many arrested were quickly tried in court and found guilty, and dozens were subsequently given the death penalty and

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<sup>52</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 123.

<sup>53</sup> *Ibid.* p. 132. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 107.

executed. People were required to attend meetings to confess to their involvement in the demonstrations and to report on the involvement of others. Party cadres were asked to watch demonstration video recordings and look at pictures in order to identify anyone from their units who had been involved. Many party members themselves had been involved and so all had to 'account for their behaviour during the demonstration period in writing and to repledge their loyalty to the party before being allowed to reregister as a party member.'<sup>55</sup>

Despite the efforts put towards identifying those involved in the demonstrations, these measures were reported to have largely failed due to continued sympathies for the demonstrators. Many of those wanted by the party evaded arrest and there was little inclination of local party cadres and members to inform on other members.<sup>56</sup> The government's crackdown on the demonstrators had generated an angry response from many Chinese citizens and so the state found itself having to 'reconstruct its legitimacy'.<sup>57</sup> As a consequence, by September-October 1989 the Chinese government had changed its domestic policy of punishment to focusing on 'stability and economic development'.<sup>58</sup> This meant that restrictions were still placed on the rights to freedom of speech, association and assembly, and the right to a free media, but freedoms were allowed in the more personal areas of clothing and daily habits. Some initiatives were announced that were designed to win the party the support of the peasants suffering under the economic modernisation programme. These included a rural healthcare programme as well as a national labour insurance scheme that would benefit all employees, not just those employed by the state. But by December 1989 it was clear these initiatives had not been successful. Unemployment had increased and international criticisms and sanctions affecting loans and aid to China made the government's attempts at improving the economy even more difficult.<sup>59</sup>

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<sup>54</sup> Hong Shi, "China's Political Development after Tiananmen: Tranquility by Default," *Asian Survey* 30 (1990), p. 1208.

<sup>55</sup> Ibid. p. 1209. Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 184.

<sup>56</sup> Hong Shi, "China's Political Development after Tiananmen: Tranquility by Default," p. 1210.

<sup>57</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 193.

<sup>58</sup> Hong Shi, "China's Political Development after Tiananmen: Tranquility by Default," p. 1212.

Throughout the latter half of 1989 and 1990 the Chinese government tried to alleviate the increasing unemployment rate. Wages for workers were decreased in order to expand the number of jobs available, rural areas were reinvested in, poverty relief received further funds, and there were attempts to stem the migration of rural workers to the cities. Even political structural reforms were announced. However, these largely comprised increased levels of communication from the party elite to the masses, not any increases in the opposite direction. Civil and political human rights abuses also continued in 1990.<sup>60</sup> AI reported that there were more than 960 death sentences that year and there were also unconfirmed reports that around 12,000 further death sentences were passed in the latter half of the year.<sup>61</sup> Asia Watch estimated 986,000 Chinese citizens were arrested under a campaign to 'crack down on serious crime' which is thought to have provided cover for further suppression of those involved in the demonstrations of 1989. In addition, reports of the dreadful conditions of prisons and the brutal treatment by prison officials continued throughout 1990.<sup>62</sup>

In 1991 the economy began to improve and the Chinese government announced that social stability had now been reached, allowing for further reforms to be carried out. Plans focused on reforms such as access to social security in the areas of unemployment assistance, aged pensions, housing, and medical insurance. Though some improvements in trial procedures were reported, other civil rights continued to be restricted for many of those arrested for their involvement in the demonstrations. Concerns over the fairness of their trials included the limited ability of those charged to organise their own defence.<sup>63</sup> In Tibet, 200 nationalists arrested in 1987 continued

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<sup>59</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 194-96.

<sup>60</sup> *Ibid.* pp. 197-99.

<sup>61</sup> Amnesty International, "The People's Republic of China: The Death Penalty in 1990," (London: Amnesty International, ASA 17/17/91, 1991), p. 1.

<sup>62</sup> Human Rights Watch/Asia, *China: Human Rights Developments*. Differences in treatment of those imprisoned for their involvement in the Tiananmen Square demonstrations and other prisoners were evident. A minority of those detained was subject to international attention and tended to be treated more humanely than others who were not individually known outside of China. Many of those unknown internationally suffered from overcrowded and unsanitary conditions in prison and gross brutality from prison officials. See Human Rights Watch/Asia, *China and Tibet*.

<sup>63</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 199-204. Human Rights Watch/Asia, *China and Tibet*.

to be detained without trial.<sup>64</sup> Throughout 1991 repression in Tibet and other ethnic regions, and against unofficial religious groups, continued.<sup>65</sup> Overall, 'at a formal level, civil rights of expression, particularly as they had an implication for politics, and civil rights of immunity were still heavily circumscribed' and, in effect, it continued to be dangerous for citizens to publicly challenge or even question the CCP.<sup>66</sup>

The international criticism directed at the Chinese government after the massacre was another area the government felt had to be addressed, reflecting its identity and desire to be seen as a great power. The draft resolution put before the UNCHR meeting in early 1990 was met with a Chinese response that disputed the resolution's allegations of human rights abuses but did not completely reject the human rights concept. In their response, the Chinese described the demonstrations in Beijing as an 'anti-government rebellion aimed at overthrowing the government of China'. The Chinese government also declared that it had 'always abided by the principles and purposes of the UN Charter, committed itself to the respect and protection of human rights and fundamental freedoms, and actively involved itself in, and supported, the United Nations in its work in the field of human rights'.<sup>67</sup> Despite this, support for the resolution was still described as interference in China's internal matters.<sup>68</sup> China ensured that it had one of the largest delegations at the UNCHR meeting in order to apply the pressure on other delegations needed to gain the slim majority in passing a no-action motion to the draft resolution. Members of the Chinese delegation 'appeared everywhere to listen in on private discussions, intimidate witnesses, or lobby actively for support.'<sup>69</sup> This was similar behaviour to that displayed by the Chinese delegates at the 1989 and 1990 UNCHR Sub-Commission meetings.<sup>70</sup> A

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<sup>64</sup> Amnesty International, "China: Crackdown on Pro-Democracy Activists Continues in Courts and Jails", (London: Amnesty International, ASA 17/40/91, 1991), p. 2.

<sup>65</sup> Human Rights Watch/Asia, *China and Tibet*.

<sup>66</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 206-7.

<sup>67</sup> Response of Chinese Delegation at the February-March 1990 UNCHR session to the draft resolution on China, quoted in *ibid.* pp. 214-15.

<sup>68</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 142.

<sup>69</sup> Tessitore and Woolfson (eds), *Issues before the 45th General Assembly of the United Nations*, p. 154.

<sup>70</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 132.

further response in 1990 to international criticism came in October when the Chinese government protested that the ILO's request for information on the human rights abuses of workers who had supported the demonstrations was inappropriate interference with internal affairs. However, the protest did accompany the delivery of at least some of the information requested by the ILO.<sup>71</sup> At the UNCHR in 1991, despite no resolution on China being introduced, Chinese officials took the opportunity to criticise the Sub-Commission for becoming too politicised, dealing with issues before the Commission, its secret ballot voting system, not controlling NGO participation, and attacking states over their internal affairs.<sup>72</sup>

In response to the international criticism of its human rights record the Chinese government also adopted a discourse that emphasised the past injustices wrought by foreign invaders on the Chinese people.<sup>73</sup> This discourse is related to government claims that there is a close link between general internal problems and external threats. For example, Chinese leaders have claimed that Tibetan opposition to Chinese rule has been fuelled by foreigners who wish to see China divided and CCP rule overthrown.<sup>74</sup> The discourse emphasizing past injustices continued into the early 1990s in an attempt by the government to fend off outside criticism.<sup>75</sup> But this defence was also aimed at a domestic audience in an attempt 'to protect and enhance the ruling coalition's own legitimacy, and to better secure the official cultural hegemony.'<sup>76</sup> This discourse resulted in a form of nationalism in the 1990s that included a resurgent appeal for

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<sup>71</sup> Asia Watch, "Chinese Workers Receive Harsher Sentences: ILO Reports on 91 Cases", (New York: Asia Watch, 1991), pp. 2-24.

<sup>72</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 63.

<sup>73</sup> Vivienne Shue, "Global Imaginings, the State's Quest for Hegemony, and the Pursuit of Phantom Freedom in China: From Heshang to Falun Gong," in *Globalization and Democratization in Asia: The Construction of Identity*, ed. Catarina Kinnvall and Kristina Jonsson (London: Routledge, 2002), p.214.

<sup>74</sup> Denny Roy, *China's Foreign Relations* (Basingstoke: MacMillan Press, 1998), p. 51. Due to there being many NGOs working on many different aspects of human rights in China, including organisations with political agendas, the Chinese government has suspected that the efforts of NGOs such as AI reflect a political agenda such as bringing about the independence of Tibet or the Xinjiang Autonomous Region. Amnesty International Secretariat Official, Interview, London, 30 March 2001.

<sup>75</sup> One of the early responses of a Chinese official during the first Australian Human Rights Delegations to China in 1991 was to refer to the lack of Western concern for Chinese human rights when China was colonised by them. Leader of the 1991 and 1992 Australian Human Rights Delegations to China, Interview, Canberra, 20 March 2002.

<sup>76</sup> Shue, "Global Imaginings, the State's Quest for Hegemony, and the Pursuit of Phantom Freedom in China: From Heshang to Falun Gong", pp. 211.

cultural traditions as well as 'a defiant third-world or postcolonial stance confronting Western cultural hegemony'.<sup>77</sup>

Other responses to international pressures and domestic considerations included the lifting of martial law in Beijing and Lhasa in January and May 1990 respectively. However, a significant security presence remained in both cities.<sup>78</sup> The Chinese government also arranged for the alleged release of 573 people imprisoned for their involvement in the demonstrations by January 1990. This was just prior to the US Congress vote on the visa status of 40,000 Chinese students in the US, and the US administration's cessation of total opposition to World Bank loans to China.<sup>79</sup> At the time of US consideration over renewal of the MFN status to China in late 1990, concessions included a claimed further 211 prisoners being released.<sup>80</sup> These were followed by reduced sentences given to over thirty of the demonstrations' leaders who were tried in early 1991.<sup>81</sup> The timing of these concessions indicates that the Chinese government was particularly concerned about improving its relationship with the US.<sup>82</sup>

In response to the particular criticisms being made of China's human rights record, in 1990 the Chinese government began to encourage an official academic discourse on the topic. The intention was to provide a counter-attack to internal and external critics of China's human rights record, as well as to develop a Marxist human rights theory.<sup>83</sup> Several conferences on human rights were held in China with government support. These included two on human rights theory, one at the People's University in Beijing in April and the other at the Legal Research Institute of the Chinese Academy of Social Sciences in June. In September a conference on human rights was organised in

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<sup>77</sup> B. Xu 'From Modernity to Chineseness': the Rise of Nativist Cultural Theory in Post-1989 China', *positions* 1998, 6(1):202-237 cited in *ibid.* p. 215.

<sup>78</sup> Human Rights Watch/Asia, *China: Human Rights Developments*.

<sup>79</sup> *Ibid.* Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 124-26.

<sup>80</sup> *Ibid.* pp. 126-27.

<sup>81</sup> Seven of these did not receive any prison sentence. Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 204, 221.

<sup>82</sup> Harding, *A Fragile Relationship: The United States and China since 1972*, pp. 262-63.

<sup>83</sup> Zhou Wei, "The Study of Human Rights in the People's Republic of China," in *Human Rights and International Relations in the Asia Pacific*, ed. James T.H. Tang (London: Pinter, 1995), p. 87.

Beijing by the Research Centre for Social Science Development of the State Education Commission.<sup>84</sup> In addition, the number of articles published in China on human rights increased dramatically with most criticising human rights as a bourgeois liberal concept. The conferences and articles signified 'the beginning of the officially organised study of human rights in the PRC'.<sup>85</sup> However, they also created space for human rights views other than those of the Chinese government to be heard. For example, at the conferences there were considerable debates on issues such as prioritising economic and social rights over civil and political rights, indicating that there was not unanimous agreement on human rights issues.<sup>86</sup>

The reduced sentences of early 1991 were the beginning of a significant increase in concessions being offered by the Chinese government, including a deepening of the official discourse on human rights. 1991 saw a further conference on human rights at the Law Faculty of the People's University in Beijing in April, two visits to the US by Chinese human rights academics, and the Chinese government releasing its first White Paper on human rights. But invitations to the Australian and French human rights delegations by the Chinese government, also in 1991, represented a significant point in China's responses to international attention to its human rights record. For the first time the Chinese government was indicating that international actors had a right to investigate and comment on China's human rights record.<sup>87</sup> But despite these concessions indicating China's movement to phase three, the Chinese government had seriously damaged the mobilisation of domestic opposition through its repressive measures.

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<sup>84</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 143.

<sup>85</sup> Zhou Wei, "The Study of Human Rights in the People's Republic of China," p. 87.

<sup>86</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 151-55. Robert Weatherley, *The Discourse of Human Rights in China: Historical and Ideological Perspectives* (Basingstoke MacMillan Press, 1999), p. 133. Zhou Wei, "The Study of Human Rights in the People's Republic of China," pp. 85-86, 92.

<sup>87</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 217, 222, 229.

## Domestic Opposition

Many opposed to the Chinese government's policies who had supported the demonstrations suffered from the repressive measures of June 1989 and the following years. Aside from those killed in Beijing on 4 June, thousands were imprisoned, tortured and/or executed in the aftermath. These actions severely disrupted the prior mobilisation of domestic opposition. This was in part because the demonstrations in Beijing and other major cities in China were spontaneous, reflecting the lack of a political plan that might have enabled the expression of dissent to continue after the killings in Beijing.<sup>88</sup> After their experiences of imprisonment, some of the students detained commented that they were first going to concentrate on becoming wealthy and influential in the business sector, and then refocus on political freedoms. These students considered 'that to develop further an economically-based civil society was a swift way to achieve democracy in China.'<sup>89</sup> Any interest in continuing activities designed to highlight their opposition to their government had clearly gone for these students. More than a decade later it is evident their optimism of a 'swift' transition to democracy was misplaced. As with the student groups, the non-official workers' organisations that had emerged by June 1989 and participated in the demonstrations also suffered from the repressive measures adopted by the Chinese government. More than twelve organisations in Beijing alone were considered to exist after the Tiananmen Square massacre. The repressive measures pushed these organisations underground but there were reports that they were still active and responsible for a number of strikes in 1991.<sup>90</sup>

The only evidence of a slight easing in the adoption of repressive measures by the Chinese government from June 1989 to early 1991 was the alleged release of some political prisoners during 1990, the lifting of martial law in both Beijing and Lhasa in

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<sup>88</sup> A useful discussion can be found throughout Zhang Liang, Andrew J. Nathan, and Perry Link, *The Tiananmen Papers* (London: Abacus, 2001).

<sup>89</sup> He Baogang, "Dual Roles of Semi-Civil Society in Chinese Democratisation," *Australian Journal of Political Science* 29, no. 1 (1994), p. 158.

<sup>90</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 133.



1990 (though an extensive security presence remained in both cities), and a reduction in the length of sentences given to those tried in early 1991. These concessions were not likely to have been particularly encouraging to those opposing the government's actions to mobilise at that stage.

The internal mobilisation of those opposed to the Chinese government may have been severely curtailed by the massacre and its aftermath, however, thousands of Chinese students studying abroad provided an important source of dissent outside China's borders. 80,000 Chinese had been studying in other countries in the decade leading up to June 1989. Groups comprised of some of these students, such as the China Alliance for Democracy in the US, already established by an exiled Chinese dissident at the time of the massacre, and the Federation for a Democratic China in France, established in the wake of the massacre, campaigned for human rights in China after 4 June. The decisions of many host states to extend the visas of Chinese students in the wake of the massacre further deepened this source of dissent. Members of these groups were able to disseminate information on human rights in China to NGOs, UN human rights bodies and other states and thus were an important source of information to the outside world.<sup>91</sup> But according to Risse et al., continued progress through the spiral model requires a greater mobilisation of internal domestic opposition. Whether this mobilisation was able to emerge in the years to follow will be discussed in the following chapters.

### **Socialisation Processes and the Chinese Government**

According to Risse et al., the dominant socialisation process in the denial phase is instrumental adaptation, although in a number of their case studies the argumentative discourses socialisation process was also evident. It is clear that the Chinese government was also engaging in both types of socialisation processes during its

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<sup>91</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 191, 220. BBC News World Edition, *China's Veteran Dissident* (10 February 2003 [cited 16 June 2003]); available from <http://news.bbc.co.uk/2/hi/asia-pacific/2593593.stm>.

denial phase. Evidence of instrumental adaptation includes that the Chinese government allegedly released 573 people detained for their involvement in the Tiananmen Square demonstrations and lifted martial law in Beijing by January 1990. This was just prior to US government decision making on the visa status of Chinese students in the US and approval for the resumption of World Bank loans to China. A further 211 detainees were released in late 1990 at the time of US consideration of China's MFN status renewal. By early 1991 these concessions had been rewarded by the lifting of most of the sanctions imposed by the democratic states in the aftermath of the massacre. In addition, at least one bargain was made with the US administration where China's support for the UN Security Council's resolution on Iraq was traded for no resolution on China being sponsored at the 1991 UNCHR meeting. The timing of these responses indicate the Chinese government was motivated by a desire to quell the international criticisms of its human rights record and prevent any further economic hardships from sanctions, rather than an acceptance of the validity of the substance of the criticisms.

The Chinese government also engaged in the argumentative discourses socialisation process throughout its denial phase, as indicated by how it refuted its critics' claims. For example, the Chinese government rejected the 1990 UNCHR resolution's allegations of human rights abuses by arguing that the demonstrators had sought to overthrow the government. The argument continued that this had therefore justified the government's responses to the demonstrations and that this was an internal affair that did not warrant international interference. In addition, support for international human rights standards and the work of the UN in this area was promoted. Thus by framing the demonstrators as rebels against the government, as well as declaring support for international human rights norms, the Chinese government was not challenging the validity of these norms but arguing that its behaviour had not contravened these norms.

The spiral model claims that the target state's identity, interests and behaviours are increasingly influenced by international human rights norms as it progresses through

the model's phases. If pressures by the transnational human rights network can be maintained, by the end of the denial phase it would be expected that the target state's interests and behaviours would at least begin to reflect these norms. This is due to the target state being engaged with primarily instrumental adaptation in phase two. Therefore, by the end of the denial phase, the target state's interests and behaviours are likely to reflect a desire to quell the criticisms of its human rights practices but this is not likely to reflect a belief inherent in its identity that it should improve its practices.

By 1991 this was mostly the case for the Chinese government. The level of international criticism the Chinese government was receiving, coupled with its dominant great power identity, motivated it to define its interests as silencing its critics in an effort to restore its international standing. The Chinese government's subsequent behaviours of lobbying at the UN and making some concessions reflected this. Thus the Chinese government was acting instrumentally rather than in a way that reflected an identity that respected and promoted the validity of international human rights norms.

As outlined earlier, in addition to instrumental adaptation, the Chinese government was also experiencing argumentative discourses in its denial phase by making arguments that did not deny the validity of international human rights norms but did deny that it had carried out abuses. This can be explained by China's involvement in the international human rights regime prior to 1989. Since the Chinese government had already publicly indicated that it had accepted the validity of at least some of the international human rights norms through the ratification or accession to various UN human rights treaties and conventions by 1989<sup>92</sup>, it would have been difficult for the Chinese government to respond to its critics by repeatedly denying the validity of these norms. Through its ratification of these instruments, China was also indicating it had accepted that engagement with international human rights norms was important

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<sup>92</sup> By 1989 China had ratified or acceded to numerous UN human rights treaties and conventions, including the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, and was participating in other UN forums on human rights. Samuel S. Kim, "Thinking

for being considered a great power in the international society of states. Thus to be able to continue to assert that it was a great power, the Chinese government found itself in the position of having to refute its critics' claims of human rights abuse without denying its support for international human rights.

However, whilst the Chinese government was experiencing instrumental adaptation and argumentative discourses, its identity as a great power was also being reflected in its attempts to shape collective understandings of international human rights norms and their enforcement mechanisms to reflect its own priorities. In 1990 the Chinese government encouraged an internal discourse on human rights and while this created space for views on human rights other than the Chinese government to be expressed, it also produced a discourse that could be used to argue and debate the substance of its critics' views. At the 1989 and 1990 UNCHR Sub-Commission sessions and the 1990 UNCHR session, Chinese officials applied pressure on delegates to cease their support for multilateral criticisms of the Chinese government. Chinese officials also began criticising the Sub-Commission for becoming politicised and trying to interfere in the internal matters of states. These attempts to influence international human rights norms and their enforcement mechanisms continued as the Chinese government progressed to the next phase of the spiral model, tactical concessions.<sup>93</sup>

### **The Transition from Denial to Tactical Concessions**

As discussed earlier in this chapter, a target state moves from phase two to phase three of the spiral model when it begins to make significant tactical concessions. Unlike many of the states studied in Risse et al., the denial phase for the Chinese government was relatively short. The length of time between the Tiananmen Square massacre and China beginning to make significant tactical concessions in response to domestic

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Globally in Post-Mao China," *Journal of Peace Research* 27, no. 2 (1990), p. 200. See Chapter Three for further detail on China's engagement with UN human rights mechanisms prior to 1989.

considerations and international pressures was under two years. As early as January 1990 the Chinese government began to make some concessions with the lifting of martial law in Beijing and the claimed release of 573 demonstrators who had been imprisoned after the events of 4 June. In contrast, the denial phases for most of Risse et al.'s case studies lasted at least a decade.<sup>94</sup>

The brevity of China's denial phase is in part a reflection of the importance it has placed on its international reputation and desire to be seen as a great power. This is evident from the extent of the Chinese government's negative reactions to outside criticisms.<sup>95</sup> Being singled out as the only permanent member of the UN Security Council to face a UNCHR country-specific resolution would have been a considerable "slap in the face" for the Chinese government. Another factor contributing to China's relatively short denial phase is that the media portrayal of events in Tiananmen Square in June 1989 placed China's human rights practices firmly on the agendas of many democratic states. There was no need for an initial lobbying effort by domestic and international NGOs to mobilise other states to make some sort of response. The graphic images of the massacre and responses of democratic states' citizens meant that these states had to respond to China's actions in some form. However, lobbying was needed to pressure states into further responses, for example, applying sanctions and supporting resolutions at the UNCHR and its Sub-Commission.

The relatively short denial phase is also a reflection of China's prior engagement with the international human rights regime and thus its existing base of knowledge about the language and rules of the regime, and its public gestures of ratification that indicated an acceptance of the validity of at least some of the international human rights norms. Related to this is Risse et al.'s concept of 'world time' in the

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<sup>93</sup> Efforts to influence understandings of international human rights norms and their enforcement mechanisms continued throughout the 1990s and began to have an effect on the transnational human rights network. See Chapters Five and Six for further detail.

<sup>94</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions," p. 265.

<sup>95</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 82.

development of the international human rights regime.<sup>96</sup> By 1989 the regime had grown to encompass many more human rights NGOs than in the previous decades (when most of Risse et al.'s case studies had commenced their denial phases), the foreign policies of many democratic states included at least some focus on human rights, and the UN human rights mechanisms had expanded to include the sponsoring of country-specific resolutions. Therefore, by the time of the Tiananmen Square massacre, the international human rights regime had developed to a point where a more effective mobilisation of international criticism could be generated in the short term compared with those for most of Risse et al.'s case studies. This reflected a greater international acceptance of human rights norms compared with the preceding decades.

A further influence on the length of China's denial phase was the Chinese government's concern with improving its legitimacy to rule in the eyes of its citizens. This is likely to have been very influential in the government allowing for some freedoms to be exercised and in its attempts to alleviate the suffering caused by the modernisation programmes. This may also have been a significant factor in the decision to lift martial law in Beijing in January 1990.

Again in contrast to many of the cases in Risse et al., the transition from the denial phase to the tactical concessions phase for China appeared to be significantly influenced by great power pressure.<sup>97</sup> Early concessions were timed to precede crucial US decisions concerning China, such as the MFN status renewal and whether to support World Bank loans to China or not.<sup>98</sup> This reflected the Chinese government's desire to be seen and treated as a great power, which required engagement with the US government and its support. US pressure and sanctions in the first few years after the

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<sup>96</sup> Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions", pp. 264-67.

<sup>97</sup> Morocco, South Africa, Guatemala. Poland, Czechoslovakia and Uganda all made the transition to phase three without significant pressure from great powers. Risse and Ropp, "International Human Rights Norms and Domestic Change: Conclusions", p. 244.

<sup>98</sup> A Chinese diplomat who defected to the US in 1990 claimed that concessions made by China were indeed attempts to influence US policy. Fox Butterfield, 'Beijing Aims Jail Releases at Influencing

massacre reflected the intensity of the images beamed to US citizens leading up to and including the killings in Tiananmen Square. US citizens demanded a response from their government, NGOs lobbied the US government and many in the Congress actively worked to bring about sanctions against China. Thus the US government was lobbying by other actors in the transnational human rights network to pressure the Chinese government to improve its human rights practices. However, as a permanent member of the UN Security Council, China's support was needed by the US in late 1990 concerning the Iraq resolution. This effectively reduced the US administration's motivation to pressure China over its human rights record for the following year. But by early 1991 China was entering the tactical concessions phase. Despite the early easing of US sanctions and changes in its priorities in late 1990, the US administration's actions had already contributed to China progressing to the next phase of the spiral model.

### **Conclusion**

The actors of the transnational human rights network and the Chinese government took actions that were largely consistent with the characteristics of phase two of the spiral model from the aftermath of the Tiananmen Square massacre in June 1989 to early 1991. The commencement of China's denial phase was indicated by the mobilisation of the transnational human rights network immediately after the killings in Tiananmen Square on 4 June 1989. The network's efforts were greatly assisted initially by the presence of the international media in Beijing whose emotive images proved to be a powerful way of disseminating information on these abuses to the outside world. International human rights NGOs, linking in with the information provided by some Chinese citizens within China and some who subsequently exiled, soon began documenting and publicising instances of human rights abuses, as well as

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US', *New York Times*, 11 May 1990 cited in Human Rights Watch/Asia, *China: Human Rights Developments*.

lobbying UN human rights mechanisms and other states to toughen their responses to China.

Many democratic states felt compelled to issue initial public responses to China immediately after the massacre because of the reactions of their citizens to the extensive media coverage of events in Beijing. Following the lobbying efforts of NGOs, and in a relatively coordinated fashion, many of these states also imposed sanctions on the Chinese government such as the suspension of military contacts and sales, bans on senior officials meetings, and the freezing of aid and new loans to China. But these sanctions were generally accompanied with efforts by the imposing states to ensure China understood that they did not wish it to be isolated. The Bush administration went so far as to send a secret delegation to China one month after the massacre to communicate this. The dilemmas faced by these states in formulating their responses to the Chinese government were illustrated in the discussion on the Australian government's responses. Concerns that trade should not be damaged were attempted to be balanced with responses to China that reflected Australia's identity as a good international citizen and the concern for human rights that accompanied this. Therefore, like the US and other democratic states, largely symbolic sanctions were imposed by Australia, along with expressions to China indicating the importance of maintaining a long term relationship.

Many of the democratic states supported a resolution expressing concern about China's human rights record at the UNCHR in 1990. The UNCHR action, and the US debate over renewal of China's MFN status, proved to be potent expressions of international disapproval given the efforts the Chinese government put into responding to these. Other UN bodies, such as several Special Rapporteurs, the Commission Against Torture and the UNCHR's Sub-Commission, also expressed their concerns during the years of the denial phase.

The Chinese government responded to these international criticisms, and to their internal critics, in various ways that were consistent with the findings of Risse et al.



concerning target states in the denial phase. Its responses indicated the Chinese government was engaging with both instrumental adaptation and argumentative discourses. In response to its internal critics, the government tried to address the suffering caused by the modernisation programme while continuing its repressive measures targeted at those who supported the demonstrations. Due to the lack of a clear political plan, the demonstrations and their supporters were effectively demobilised by the government's actions. In response to international criticisms, the Chinese government did not reject the human rights concept but attempted to justify its actions by labelling the demonstrations as an attempt to overthrow the government and outside criticism as interference into its internal affairs. It also cultivated an internal nationalistic response to its Western critics, as well as began to make concessions largely in an effort to appease the US government.

Risse and Sikkink described the transition to phase three as the 'biggest challenge for the transnational human rights network' due in part to the weakness of the domestic opposition relative to the target state at this stage.<sup>99</sup> In terms of the speed with which China began to offer tactical concessions, it would seem that this transition was not the biggest challenge in the case of China. The brevity of China's denial phase was due to the Chinese government's great power identity and thus the importance it placed on its international image, its legitimacy to rule in the eyes of its citizens, the presence of the media in Beijing at the time of the massacre allowing for the immediate dissemination of information on human rights abuses to the outside world, and the greater degree of engagement with international forums on international human rights norms by the time of the massacre, compared with most of Risse et al.'s case studies. China's sensitivity to the pressure of the US government as a great power also influenced its relatively brief denial phase, with early concessions being timed to coincide with US decisions concerning China such as the renewal of the MFN status.

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<sup>99</sup> Risse and Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction", p. 24.

The transition from phase three to four would appear to be a larger challenge in the case of China as further progress through the model is dependent on the ability of the domestic opposition within China to mobilise. The Chinese government carried out extreme repressive measures throughout the denial phase, imprisoning, torturing and executing thousands of citizens who had supported the Tiananmen Square demonstrations. With the support of outside organisations and states, the government did offer respite to a very small minority of these citizens through allowing for their release. But the degree to which the Chinese government was able to carry out repressive measures against those perceived to be in opposition to it inhibited the growth of a domestic opposition during the period of time characterised here as the denial phase.<sup>100</sup> In addition, given that the demonstrations' growth had been spontaneous and lacking an overall political plan, the effects of the tanks in Tiananmen Square were to snuff out the potential for this expression of opposition to develop.<sup>101</sup>

Not only was the Chinese government able to demobilise the supporters of the demonstrations by early 1991, it was also showing indications of its ability to influence some of the enforcement mechanisms of international human rights norms. This separates China from the states focused on by Risse et al., and also highlights the part of the constitutive relationship between a target state and international human rights norms that is not focused on by the spiral model.

China's permanent member status at the UN Security Council, and being a significant trading partner with many other states, are important factors to consider when examining the socialisation of the Chinese government to international human rights norms. As discussed in Chapter Two, the spiral model does not focus on the part of the constitutive relationship between a target state and international human rights norms that highlights any influence on these norms by the target state. Given that China is a significant actor in the international arena, this part of the constitutive

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<sup>100</sup> Whether there can be considered to be a growth in domestic opposition in the tactical concessions phase will be discussed in the following chapters.

relationship needs to be explored. In the denial phase we can see the beginnings of China's influence on the UN enforcement mechanisms of international human rights norms. The extent of China's lobbying at the UNCHR reflected a state whose dominant identity was that of a great power, reflected in its concern about its international image and high motivation to influence the outcomes of multilateral efforts targeting it. The Chinese government was not able to prevent a resolution on its human rights practices being sponsored at the 1990 UNCHR meeting, but it was successful in gaining enough support to get a no-action motion passed. As a permanent member of the UN Security Council, China was also able to prevent a resolution on its human rights practices being sponsored at the 1991 UNCHR meeting in return for it not opposing a Security Council resolution on Iraq. The Chinese government's efforts to influence the international human rights mechanisms continued throughout the 1990s and Chapters Five and Six will further discuss the impact this has had on these enforcement mechanisms.

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<sup>101</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 177.

## **Chapter Five - Phase Three: Tactical Concessions Part A 1991-1997**

### **Introduction**

Phase three of the spiral model is reached when the transnational network maintains the pressure on the target state to such a degree that the state feels compelled to make tactical concessions. This means that international criticisms and the activities of domestic human rights groups concerning the target state's human rights abuse record succeed in convincing the state to take at least some sort of action to improve its record. For example, the target state may release a few political prisoners, agreement may be given to sign an international human rights treaty and/or martial law may be lifted. According to these phase three characteristics, the Chinese government progressed to this phase in 1991 when it began to make a significant degree of concessions. Concessions were made by the Chinese government in 1990 when martial law was lifted in Beijing and Lhasa and some political prisoners released, but significantly more concessions began to be made by the government in early 1991. Reduced sentences were given to those tried that year for their role in the demonstrations, increased discussions on human rights were allowed within China, the first White Paper on human rights was released, and human rights delegations from various countries were allowed to visit China. Further concessions have continued to be made by the Chinese government since 1991.

According to Risse et al., the socialisation processes of both instrumental adaptation and argumentative discourses are at play in phase three, with the latter becoming increasingly dominant. Thus in the early stages of phase three a target state is likely to make concessions in response to domestic and international criticisms in an attempt to silence its critics, without necessarily being persuaded of the importance of improving its human rights record. This is the effect of the instrumental adaptation socialisation process. But as phase three progresses and argumentative discourses become the dominant socialisation process, the target state becomes increasingly likely to take its critics and their criticisms more seriously. This results in both the target state and its

critics beginning to engage in arguments over the substance of the criticisms and the target states' justifications of its human rights record.<sup>1</sup>

As was found in Chapter Four, unlike most of Risse et al.'s cases China engaged with both instrumental adaptation and argumentative discourses in the denial phase. Both of these socialisation processes continued in phase three. The Chinese government continued to make some concessions in attempts to quell international criticisms but also argued that their repressive actions were justified as the organisers of the demonstrations had been trying to overthrow the Chinese government. The Chinese government also continued to promote its own understandings of international human rights norms and its attempts to influence the enforcement mechanisms of the norms.

Risse et al. found that a crucial development in phase three is needed for the target state to have the potential to progress to phase four. This development is the mobilisation of domestic opposition groups. Risse et al. concluded that progress to phase four could be effectively delayed if the target state carries out a programme of repression that is successful in deterring the efforts of domestic opposition movements. If this does not occur, or if this repression is not successful in deterring domestic calls for human rights improvements and international condemnation intensifies, then the target state may progress to prescriptive status, phase four of the spiral model. This is where the target state begins to institutionalise international human rights norms into domestic practices and no longer contests the validity of the norms. This factor is of great significance to China's potential for progress to phase four of the model. As discussed in Chapter Four, the Chinese government was able to implement extreme repressive measures in the aftermath of the 1989 massacre, which did inhibit the growth of the domestic opposition during the denial phase. Repressive measures continued to be used by the Chinese government throughout phase three. This helped to hinder the development of a domestic opposition that could effectively

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<sup>1</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 28.

challenge the Chinese government, and coupled with a decline in international condemnation, this meant that China's progress to phase four was stalled.<sup>2</sup>

Therefore, according to the characteristics of the spiral model, by 2003 China remained in phase three. This chapter and the next will explore the responses and actions of both the transnational human rights network and the Chinese government in phase three, covering the time period from the commencement of China's significant concessions in early 1991 to 2003. In this chapter, the responses and actions of these actors from the beginning of phase three in early 1991 to the beginning of a significant change in democratic states' responses to China's human rights record in 1997 will be examined. The responses of international human rights NGOs to China's continued abuses will first be focused on, followed by the responses of democratic states, including those of the US and Australia in more detail. The responses of the various human rights UN bodies will then be examined. An exploration of the Chinese government's concessions and other responses to the transnational human rights network, and the domestic opposition's actions and potential for further mobilisation, will follow. To conclude the chapter, there will be a discussion of the Chinese government's participation in instrumental adaptation and argumentative discourses, as well as its other responses to the transnational human rights network. This discussion will highlight that part of the constitutive relationship between a target state and international human rights norms that is not focused on by the spiral model – the influence on these norms by the target state.

### **The Responses of International Human Rights NGOs**

Various international human rights NGOs actively campaigned about the civil and political human rights abuses in China over the time period from 1991 to 1997. Particularly active in this period were AI and Human Rights Watch/Asia (HRW)

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<sup>2</sup> This will be further discussed in Chapter Six where the latter period of phase three under discussion here will be covered.

(known in the early 1990s as Asia Watch) which released many public reports detailing instances of human rights abuses in China, lobbied UN and democratic states to pressure China, and attempted to directly engage with the Chinese government itself regarding its human rights record.

In 1991 AI requested permission from the Chinese government to attend the trials of those arrested for their involvement in the 1989 demonstrations but to no avail.<sup>3</sup> Throughout 1991 to 1997 AI appealed to the Chinese government for the release of political prisoners, fair trials and for the cessation of the death penalty, without getting any direct response from Chinese authorities. Neither was AI given permission to visit China in any of these years. From 1993 to 1997 AI appealed to the Chinese government, without response, to investigate reports of the use of torture. In 1993 AI also asked for permission to visit China for human rights discussions and again received no reply. AI representatives attended the Fourth UN World Conference on Women in Beijing in 1995 and once again were unsuccessful in attempts to meet with Chinese officials. In 1996, however, AI representatives participated in the 96<sup>th</sup> Inter-Parliamentary Conference in Beijing and were able to have informal talks with Chinese officials representing the government.<sup>4</sup> AI representatives also managed to secure discussions with one Chinese Foreign Ministry official and representatives of the China Study for Human Rights during their visit to Norway in 1997.<sup>5</sup> This indicates that by 1996 the Chinese government had decided to at least meet with the human rights NGO's officials and engage in human rights discussions with them. In addition to these attempts focused on directly pressuring the Chinese government to change its human rights practices, AI provided information to the UNCHR at each of its annual sessions from 1991 to 1997 and its Sub-Commission from 1991 to 1993 based on its research into human rights abuses in China. The NGO also published 40

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<sup>3</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1991* (1992 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1992/WR92/ASW-05.htm#P224\\_76659](http://www.hrw.org/reports/1992/WR92/ASW-05.htm#P224_76659).

<sup>4</sup> Amnesty International, *Amnesty International Report 1996* (London: Amnesty International Publications, 1996), p. 120.

Amnesty International, *Amnesty International Report 1997* (London: Amnesty International Publications, 1998), p. 121.

<sup>5</sup> Amnesty International, *Amnesty International Report 1998: China* (1998 [cited 30 September 2003]); available from <http://www.amnesty.org/ailib/aireport/ar98/asa17.htm>.

public reports over the 1991-1997 time period detailing the human rights abuses in China its research had uncovered<sup>6</sup>, and national AI groups lobbied their governments to place further pressure on China to improve its human rights record.<sup>7</sup>

HRW also unsuccessfully requested permission to attend the 1991 trials of those arrested for their involvement in the 1989 demonstrations.<sup>8</sup> Other HRW activities in the 1991-1997 period included the consistent lobbying of the US administration and Congress to pressure China over its human rights record. For example, in 1991 HRW wrote to President Bush asking him to personally express his concern to the Chinese government over the welfare of Wang Juntao, a political prisoner who had started a hunger strike because he was not receiving medical care for his ill-health. The President refused to do so nor did he comment publicly, however, the US Department of State did ask the Chinese government to allow international observers to see Wang and another political prisoner suffering ill-health. Also in 1991 HRW participated in a nine day visit to Tibet organised by the National Committee on US-China Relations, provided information on Chinese political prisoners to the Assistant Secretary of State for Human Rights and Humanitarian Affairs, gave information on Chinese prison labour exports to the US Customs Service, gave briefings to US Embassy officials in China, and testified before various congressional forums.<sup>9</sup>

From 1992 to 1997 HRW published 24 reports on human rights abuses in China and actively campaigned in 1993 to ensure that human rights were a serious consideration

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<sup>6</sup> These reports focused on the unfair trials of political prisoners, the system of administrative detention, the use of the death penalty, repression in Tibet and Xianjiang, religious repression, and the use of torture and ill-treatment in detention. See Amnesty International, *Amnesty International Report 1992* (London: Amnesty International Publications, 1992); Amnesty International, *Amnesty International Report 1993* (London: Amnesty International Publications, 1993); Amnesty International, *Amnesty International Report 1994* (London: Amnesty International Publications, 1994); Amnesty International, *Amnesty International Report 1995* (London: Amnesty International Publications, 1995); Amnesty International, *Amnesty International Report 1996*; Amnesty International, *Amnesty International Report 1997*; and Amnesty International, *Amnesty International Report 1998: China*.

<sup>7</sup> Amnesty International Australia Government Liaison Group member, Interview, Canberra, 16 August 2001.

<sup>8</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1991*.

<sup>9</sup> Ibid.



in the 2000 Olympic site decision.<sup>10</sup> In 1994 the NGO released a directory detailing more than one thousand political and religious prisoners in China and also devoted considerable efforts to encouraging businesses to develop human rights principles to guide their practices in China.<sup>11</sup> In addition to lobbying US government bodies, in 1995 HRW lobbied the EU, members of the UNCHR to support a resolution critical of China's human rights record at that year's session, and US businesses involved with the Three Gorges dam project.<sup>12</sup> In 1996 HRW published a detailed report on the abuses suffered by children in Chinese orphanages that generated much international media attention. In part through the lobbying efforts of the NGO, the European Parliament adopted a resolution calling for China to allow international access to its orphanages and for the UNCHR to take action.<sup>13</sup>

Along with AI and HRW, other NGOs lobbied and provided information to experts at the UNCHR Sub-Commission's sessions. These organisations included Human Rights in China (HRIC), June 4 China Support Group, Habitat, Fédération Internationale des Ligues des Droits de l'Homme, International Association of Educators for World Peace, International League for the Rights and Liberation of Peoples, World Organisation Against Torture, and Pax Christi International.<sup>14</sup> In 1996 HRIC also provided information to the UN Commission Against Torture on the use of torture in China and a report evaluating China's 1995 report.<sup>15</sup>

Other international human rights NGOs who campaigned on behalf of human rights abuses in China during the 1991-1997 period included ICJ that published a report on

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<sup>10</sup> Beijing subsequently lost the 2000 Olympics to Sydney. Human Rights Watch, *China and Tibet: Human Rights Developments 1993* (1994 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1994/WR94/Asia-03.htm#P147\\_52880](http://www.hrw.org/reports/1994/WR94/Asia-03.htm#P147_52880).

Human Rights Watch, *China: Human Rights Developments 1992* (1993 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1993/WR93/ASW-05.htm#P141\\_58408](http://www.hrw.org/reports/1993/WR93/ASW-05.htm#P141_58408).

<sup>11</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1994* (1995 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1995/WR95/ASIA-03.htm#P184\\_61964](http://www.hrw.org/reports/1995/WR95/ASIA-03.htm#P184_61964).

<sup>12</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1995* (1996 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1996/WR96/ASIA-02.htm#P250\\_71314](http://www.hrw.org/reports/1996/WR96/ASIA-02.htm#P250_71314).

<sup>13</sup> Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), p. 195.

<sup>14</sup> Ann Kent, *China, the United Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999), footnote 84, pp. 272-73.

repression in Tibet in 1997.<sup>16</sup> Following on from its 1989 report to the ILO in 1992, in 1997 ICFTU again reported to the ILO its concerns over the suppression of members of non-official trade unions in China. In 1995 the ICFTU, in conjunction with the International Transport Workers' Federation (ITWF), requested the ILO take action over the cases of three Chinese seamen who had been detained for protesting about their conditions of work.<sup>17</sup>

The groups established by exiled Chinese dissidents continued to be an important source of information for international NGOs given that it continued to be dangerous for human rights activists within China to have direct links with international human rights NGOs.<sup>18</sup> The exiled dissidents also provided information on human rights abuses in China to states, and in particular they lobbied the US Congress during the MFN debates and prior to US-Chinese government discussions. For example, the Federation for a Democratic China (FDC) sent an open letter to the US Secretary of State in November 1991 asking him to insist during his upcoming visit to China that the Chinese government release all the imprisoned demonstrations activists and other political prisoners, and allow all exiled political dissidents to return to China.<sup>19</sup> In a show of unity, the first joint statement made by Chinese human rights NGOs who resided outside of China (except a Tibetan NGO) was made at the UN World Human Rights Conference at Vienna in 1993. All of these NGOs pledged support for the universality of human rights, that 'human rights and democracy are inseparable', all political prisoners should be released and persecution ceased, minorities' cultures and their rights to practise their religions and languages should be respected, and that China should cooperate with international human rights organisations including

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<sup>15</sup> Ibid. p.100.

<sup>16</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1993* ([cited]). US Department of State, *China Country Report on Human Rights Practices for 1997* (1998 [cited 29 September 2003]); available from [http://www.state.gov/www/global/human\\_rights/1997\\_hrp\\_report/china.html](http://www.state.gov/www/global/human_rights/1997_hrp_report/china.html).

<sup>17</sup> Ann Kent, *China, the United Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999), p. 134. See the *Domestic Opposition* section in the chapter for further detail about non-official trade unions in China, and the *UN Responses* section for further detail on the ILO's activities concerning China.

<sup>18</sup> Amnesty International Secretariat Official, Interview, London, 16 August 2004.

<sup>19</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong: Oxford University Press, 1993), p. 221.

NGOs. These NGOs included HRIC (New York), China Human Rights Fund (Washington DC), Taiwan Association for Human Rights, Chinese Association for Human Rights (Taipei), Hong Kong Human Rights Commission, International Coalition for Human Rights in China (the Netherlands), Inner Mongolian Human Rights Defense League (Germany), Chinese Students' Human Rights Organisation (Australia), and Alliance of Taiwan Aborigines.<sup>20</sup>

Due to the efforts of these international human rights NGOs, in particular AI and HRW whose international profiles, research resources and networking abilities with other NGOs by the 1990s were significant, democratic states and UN human rights bodies were receiving credible information on human rights abuses in China and pressures to act on it.

### **The Responses of Democratic States**

In response to continued reports of human rights abuses in China, the lobbying efforts of international human rights NGOs, and pressures brought to bear by various domestic actors, many democratic states supported the annual resolutions critical of China's human rights record at the UNCHR from 1992 until at least 1996. Some emphasis was also placed on human rights in the bilateral relationships between democratic states and China. However, this emphasis decreased in importance over the 1991-1997 period as economic and strategic considerations assumed greater importance in the foreign policies of democratic states, including Australia.

In this section the responses of the US government will first be explored reflecting its status as sole superpower by 1991. This status was not lost on China which was very keen on achieving a level of engagement with the US that reflected China's desire to be seen as a similarly powerful state.<sup>21</sup> Therefore, the Chinese government was

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<sup>20</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 180.

<sup>21</sup> Andrew J. Nathan, "China: Getting Human Rights Right," *The Washington Quarterly* 20, no. 2 (1997), p. 146.

particularly reactive and responsive to US statements and actions concerning human rights in China. The responses of other democratic states will then be discussed in this section, these responses also generating reactions from the Chinese. Finally, the Australian government's responses will be explored here to illustrate in more detail the dilemmas faced by a middle power in trying to balance its economic and strategic interests with human rights considerations.

### US Government Responses

US responses to continuing reports of human rights abuses in China and the lobbying efforts of international human rights NGOs were dominated from 1991 to 1994 by the debate between the Administration and Congress over the renewal of China's MFN trade status. From 1992 the US also supported the multilateral avenue of pressuring China over its human rights record through its support for the annual resolution critical of China at the UNCHR.<sup>22</sup> Once the MFN debate had effectively been settled in 1994 with the decision to delink human rights and trade, other issues began to dominate Sino-US relations, although the US did continue to support a resolution on China at the UNCHR for the remainder of the 1991-1997 time period.

Debate about the renewal of China's MFN status continued in 1991 after the 1990 renewal of the status included annual renewal terms conditional on human rights improvements. The US House of Representatives and Senate both passed legislation in July 1991 calling for China to improve its human rights record before its MFN status could be renewed the following year, the Senate bill adding that China also needed to reduce its weapons sales and change its trade policy. However, this legislation failed to attract the majority needed in the Senate to override a presidential veto. The Bush administration argued that human rights and trade issues should be kept separate and, reflecting the Chinese government's preferred human rights policy approach, that US human rights policy on China would best be served by a bilateral

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<sup>22</sup> See the *UN Responses* section of this chapter for more detail.

human rights dialogue.<sup>23</sup> Various US and Hong Kong groups and companies who feared they would be negatively affected by any economic sanctions against China agreed with the President and lobbied the US Senators. The Chinese government also participated in the lobbying process via a US public relations company, Hill and Knowlton, showing the extent to which the Chinese were willing and able to go to quell such criticisms and potential sanctions. In November 1991 the US House of Representatives passed further legislation, specifying conditions that had to be met before China could renew its MFN status in June 1992. These conditions included the release of all those imprisoned for participating in the 1989 demonstrations. In March 1992 the Senate also passed this legislation, but again failed to attract enough votes to prevent President Bush's veto.<sup>24</sup>

Despite arguing for the severance of the link between MFN renewal and human rights, the US administration did raise human rights issues with the Chinese government on at least one occasion in 1991. When the US Secretary of State visited Beijing in November to discuss various issues, he also asked for information on the welfare of 800 political prisoners on a list that had been handed to the Chinese by the office of the US Assistant Secretary of State for Human Rights and Humanitarian Affairs in June. Some information on these prisoners was subsequently received from Chinese officials.<sup>25</sup>

The debate between the Bush administration and Congress on the renewal of China's MFN status continued in late 1992. A Bill reflecting a proposal put forward by HRW linking China's MFN status with human rights improvements, as well as progress on further access to China's markets and nuclear proliferation concerns, passed in both the Senate and the House of Representatives. The Bill also limited potential losses of

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<sup>23</sup> See the *Chinese Government's Tactical Concessions and Other Responses to the Transnational Human Rights Network* section in this chapter for further discussion on the bilateral dialogue approach.

<sup>24</sup> Foot, *Rights Beyond Borders. The Global Community and the Struggle over Human Rights in China*, pp. 133-35. Human Rights Watch, *China and Tibet: Human Rights Developments 1991*. Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 217.

<sup>25</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 135-36.

tariffs to state-owned enterprises, not private Chinese organisations.<sup>26</sup> However, President Bush was again able to use his presidential veto to override the Bill due to insufficient votes in the Senate. China's MFN status was thus renewed without conditions. The Bush administration's human rights policy concerning China extended that year to the US government signing a Memorandum of Understanding with China that prohibited the export of prison labour goods to the US, and holding two discussions with high-level Chinese officials as part of the Sino-US human rights dialogue. But this dialogue was to be short-lived – it was suspended by China later that year after the US decision to sell fighter jets to Taiwan.<sup>27</sup>

The Clinton administration came into power in the US late in 1992 after first criticising the Bush administration's lack of support for democracy and human rights in other countries, particularly China, in the lead-up to the election, and then gradually softening its stance to one that emphasised the importance of both working towards human rights improvements in China and not isolating China. This change in attitude reflected the lobbying efforts of hundreds of US companies as well as Chinese officials who emphasised the potential financial benefits to the US of not linking human rights and trade. It also reflected a growing coalition in the Congress who began to consider that economic improvements in China were improving conditions for Chinese citizens and that a human rights-trade linkage would be counter-productive.<sup>28</sup> But despite the softened attitude, in 1993 the Clinton administration still decreed an executive order that China's MFN status renewal in 1994 would again be conditional on improvements in human rights. Particular improvements included that China needed to show progress in the treatment of prisoners, and the release of political prisoners and those imprisoned for exercising their right to freedom of religion. However, the executive order stipulated that China was only required to have made "overall" progress in order to have the MFN status renewed. This effectively

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<sup>26</sup> Human Rights Watch, *China: Human Rights Developments 1992*.

<sup>27</sup> *Ibid.*

<sup>28</sup> David Lampton, "America's China Policy in the Age of the Finance Minister: Clinton Ends Linkage," *The China Quarterly* 139 (1994), pp. 600-1, 604-8, 12.

gave the Chinese a significant degree of flexibility.<sup>29</sup> The Clinton administration also increased discussions between US and Chinese officials on human rights in 1993 in an effort to encourage further human rights improvements in China. Other US government efforts that year included Congress members lobbying the International Olympic Committee (IOC) against choosing Beijing to host the 2000 Olympics in the lead-up to the September vote.<sup>30</sup> In contrast to these efforts, the Clinton administration rewarded China the same year by resuming the military exchanges that had been suspended in the wake of the Tiananmen Square massacre.<sup>31</sup>

The US business and Chinese lobbying of the Clinton administration increased in the lead up to the 1994 decision on China's MFN renewal.<sup>32</sup> In addition, strategic concerns about North Korea's nuclear build-up, its refusal to be inspected by the International Atomic Energy Authority (IAEA), and the prospects of a possible war between the US and North Korea, meant that the US felt it had to rely on China to apply pressure to encourage North Korea to change its policies. China was indeed able to persuade North Korea to accept IAEA inspections, illustrating once again the ability the Chinese government had to be an important participant in major world affairs.<sup>33</sup> The combination of the lobbying and China's strategic importance regarding North Korea proved to be a potent amount of pressure on the US administration leading up to the annual MFN decision. President Clinton began to look for ways in which the renewal could be granted without appearing to be backing away from a concern for human rights. Just prior to Clinton's decision on whether to link China's MFN renewal status and human rights, a US administration representative was sent to China to encourage further human rights concessions than those offered in the

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<sup>29</sup> Ibid. p. 602. Patrick Tyler, *A Great Wall: An Investigative History Six Presidents and China* (New York: PublicAffairs, 1999), p. 394.

<sup>30</sup> The European Parliament passed a resolution also in opposition to China's bid and Beijing was subsequently not awarded the 2000 Olympics on human rights grounds. Human Rights Watch, *China and Tibet: Human Rights Developments 1993*.

<sup>31</sup> Ibid. This reward was largely the result of the US falsely accusing China of exporting chemical materials suitable for weapons to Iran in mid 1993. Tyler, *A Great Wall: An Investigative History Six Presidents and China*, pp. 396-400.

<sup>32</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

Lampton, "America's China Policy in the Age of the Finance Minister: Clinton Ends Linkage," p. 613.

<sup>33</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 164.

preceding months by the Chinese. The Chinese government offered minimal concessions that included 'the release of Chinese dissident Chen Ziming and six religious prisoners, resolution of some emigration cases, progress on the issue of jamming the Voice of America',<sup>34</sup> and promises of more detailed discussions with the International Committee of the Red Cross (ICRC) concerning their access to Chinese prisons.<sup>35</sup> Despite China having made only these minimal concessions and therefore no significant progress in human rights and other areas specified by the US administration in 1993, Clinton announced in May 1994 that China's MFN status would no longer have conditions attached to it. Future US policy on human rights in China would be characterised by "constructive engagement", meaning the behind-closed-doors diplomacy of the dialogue approach.<sup>36</sup> China's MFN status continued to be discussed in Congress in the following years but the issue never attracted the votes needed to apply the sanction.<sup>37</sup>

Human rights issues in China were largely downplayed in the Sino-US relationship in 1995. Some of the original sanctions placed on China after the Tiananmen Square massacre still remained, including the ban on weapons sales and licences for dual-use technology, but other issues dominated the relationship. These included the Taiwanese President's private visit to the US in June, which generated Chinese anger, Chinese violations of copyright and trademark rules, and the imprisonment of the US-based Chinese activist Harry Wu in China.<sup>38</sup> In the midst of these issues, the Chinese government expressed its desire for a summit meeting between the US and Chinese Presidents. Such a meeting would give the Chinese their greatly desired "face" in the international arena and 'the opportunity to seek US concessions on long-standing

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<sup>34</sup> Lampton, "America's China Policy in the Age of the Finance Minister: Clinton Ends Linkage," p. 619.

<sup>35</sup> The first ever meeting between the Chinese government and the ICRC had been held in January 1994. Tyler, *A Great Wall: An Investigative History Six Presidents and China*, pp. 404-8.

<sup>36</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

Lampton, "America's China Policy in the Age of the Finance Minister: Clinton Ends Linkage," pp. 600-3, Nathan, "China: Getting Human Rights Right," p. 135.

<sup>37</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001), pp. 47, 55.

<sup>38</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1995*.



issues'.<sup>39</sup> The Chinese government was able to use the Taiwanese President's US visit, as well as the release of Harry Wu, as leverage to secure a meeting of the Presidents in New York in October. However, this meeting was described by Clinton as a "working" visit as opposed to a state visit, effectively downgrading its importance.<sup>40</sup> Human rights concerns were reportedly raised in private at the meeting, but the only public comments made by the US administration concerning human rights were in regards to Harry Wu's detention and the reimprisonment of another political activist who had been released the previous year just prior to the US MFN decision.<sup>41</sup>

As a result of military activity in the Taiwan Straits by both China and the US in 1996, security concerns became the top priority of discussions between the states that year. The Chinese had fired live missiles near Taiwan's shore just prior to the 1996 Taiwanese presidential election and the US had responded by positioning two aircraft carrier battle groups near Taiwan to send the message that any military action by China would not be tolerated.<sup>42</sup> At various private meetings between US and Chinese officials in 1996 human rights were again reportedly raised, but no public US comments were made as to the results of these discussions. The suspension of the Sino-US human rights dialogue in 1994 was also yet to be lifted by the Chinese. The US administration generally avoided making public statements on China's human rights abuses throughout 1996. Instead it began claiming that China's economic development would lead to liberalisation in the long run anyway, and emphasised once again that a bilateral dialogue with China would be the best approach to human rights.<sup>43</sup>

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<sup>39</sup> Nathan, "China: Getting Human Rights Right," p. 146.

<sup>40</sup> The US administration refused to call it a state visit on the grounds that these were only for countries with who the US had an "excellent" relationship. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 50.

<sup>41</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1995*.

<sup>42</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 52-53.

<sup>43</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 201. However, the US Department of State and Congress members continued to make public statements, particularly in regards to political prisoners. See Human Rights Watch, *China: Human Rights Developments 1996* (1997 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1997/WR97/ASIA-03.htm#P164\\_85228](http://www.hrw.org/reports/1997/WR97/ASIA-03.htm#P164_85228).

Throughout 1997 the US President, Vice-President, Secretary of State and National Security Advisor all held discussions with Chinese leaders that were dominated by issues other than human rights. The US Vice President and National Security Advisor both conducted visits to China that year and during their visits a prominent dissident, who had been released from prison in June 1996, was placed under house arrest in Beijing. This highlighted the negative impact that visits of high level officials could have on the welfare of dissidents in China. The Vice President's visit focused on trade issues and no public statement was made about human rights. The US Secretary of State met the Chinese Foreign Minister in Hong Kong in June, just prior to the handover of the territory to China, and the Secretary of State did take the opportunity to publicly raise human rights, although this was limited to reports of Wei Jingsheng being beaten in prison.<sup>44</sup> The first state visit or summit meeting between Presidents Clinton and Jiang Zemin was held in Washington in October 1997 which finally represented a coup for the Chinese as it signalled the great importance the US placed on its relations with China. Once again, human rights were reportedly raised in the private discussions and this time President Clinton also raised concerns for human rights in China in public, although no human rights preconditions were attached to the meeting.<sup>45</sup> Particular human rights concerns raised by President Clinton included the need for China to allow political dissent. The President also lauded the US government's continuing support for the UNCHR resolution process regarding China and that the US desired a dialogue with China on human rights. In response to a media question at the summit meeting's press conference, the Chinese President outlined that China's continuing priority was to maintain social and political stability as this was necessary for economic reform to continue.<sup>46</sup>

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<sup>44</sup> For the first six months of 1997 the international community in general was preoccupied with concerns that the rule of law in Hong Kong and the freedoms of its citizens would be maintained by the Chinese after its takeover in July, rather than human rights in mainland China. For example, the Group of Eight meeting in Denver in June urged China to respect Hong Kong's rule of law and freedoms. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet* (1998 [cited 29 September 2003]); available from [http://www.hrw.org/worldreport/Asia-04.htm#P337\\_94962](http://www.hrw.org/worldreport/Asia-04.htm#P337_94962).

<sup>45</sup> Ibid. "Remarks by President Clinton in His Address on China and the National Interest" The White House, Office of the Press Secretary, October 24, 1997 (Voice of America, Washington DC) included in Ming Zhang and Ronald N. Montaperto, *A Triad of Another Kind: The United States, China, and Japan* (London: MacMillan Press, 1999), pp. 127-35.

<sup>46</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 24.

As the years progressed from 1991 to 1997, the emphasis placed on human rights in China by the US administration decreased. The only consistent focus on human rights in China by the US was the support it gave to the annual resolution process at the UNCHR from 1992 to 1997.<sup>47</sup> The central focus on human rights in China in the early 1990s, due to the human rights conditions attached to China's MFN status renewal, was removed with the Clinton administration's decision to delink human rights and trade. China's important role in ameliorating the North Korean crisis and its military activities in the Taiwan Straits seemed to effectively communicate to the US that this country would not be dictated to about such issues as human rights. By 1997 there were significantly fewer public statements being made by the US government concerning human rights abuses in China, and more support being given to the dialogue approach.

#### The Responses of Other Democratic States

As with the US, other democratic states also supported the annual resolution process at the UNCHR from 1992. Other responses of democratic states from 1991 to 1997 to NGO lobbying and reports of continued human rights abuses in China included having discussions with Chinese officials on human rights and sending human rights delegations to China. However, economic and trade considerations assumed increasing importance to these states over this time period, impacting on their human rights policies regarding China. This was reflected in 1997 when some of these states, in contrast to the US, ceased their support for the annual UNCHR resolution process critical of China and opted instead for China's preferred approach to human rights policy, the bilateral dialogue.

In 1991, with most of the sanctions applied after the Tiananmen Square massacre lifted, the bilateral human rights policies of a number of democratic states began to be

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<sup>47</sup> However, the amount of effort the US put into lobbying other states to support the resolution varied from year to year. See the *UN Responses* section in this chapter for further detail.

characterised by human rights discussions with Chinese officials, although sometimes human rights was only one issue out of many to be raised. For example, the French Foreign Minister visited China in April and amongst a busy agenda highlighted that human rights needed to be respected and political prisoners released. China was also persuaded to invite Australian and French human rights delegations to visit China in 1991. Both of these delegations delivered critical public reports of China's human rights record, indicating that these were not token visits. A second Australian delegation visited China in 1992, as did delegations from Austria, Britain and Switzerland.<sup>48</sup> However, by 1992 it became clear that China's increasing economic growth rate and levels of bilateral trade were going to provide the leaders of democratic states with a significant dilemma in their human rights policies with China.<sup>49</sup> Continued public expressions of concern over human rights abuses in China could mean that the prosperity of some of their domestic voters would be negatively affected.<sup>50</sup>

In contrast to the other democratic states, Japan continued to take particular care to avoid a confrontational stance on human rights to China and to promote normalcy in Sino-Japanese relations from the beginning of the 1991-1997 period. For example, high level visits occurred between the countries including the visits by Prime Minister Toshiki Kaifu in August 1991 to China, the first leader of the G7 states to do so after the Tiananmen Square massacre, CCP General Secretary Jiang Zemin in April 1992 to Japan, and a visit to China by Emperor Akihito later that same year.<sup>51</sup> Japan's desire to avoid confronting China over its human rights record reflected the importance that Japan placed on its relationship with China and the lower priority it placed on human

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<sup>48</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 136.

<sup>49</sup> China's economic growth began to recover from its fall in 1989 after Deng Xiaoping visited southern China in early 1992 and emphasised that the economic development of the region was a shining example for the whole country. Foreign direct investment subsequently increased and bilateral trade began to flourish. Ibid. p. 158. Lin Liangqi, "The 'Deng Whirlwind' Fills China with Vitality," *Beijing Review* 37, no. 6-7 (1994), pp. 4-5.

<sup>50</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 158.

<sup>51</sup> Li Haibo, "Kaifu Visits Beijing to Refresh Ties," *Beijing Review* 34, no. 33 (1991), p. 4. Beijing Review, "Emperor's Visit a Milestone," *Beijing Review*, November 2-8 1992, pp. 4-5.

rights in foreign policy compared to other democratic states.<sup>52</sup> After signing the US-Japan Joint Declaration on defence cooperation in 1996 and effectively straining its relations with China, the Japanese government was even less motivated to provoke China over its human rights record.<sup>53</sup>

China actively sought to promote its trade links with Japan and other democratic countries, for example, in June 1992 a Chinese trade mission was sent to Europe. Democratic states also began to send trade delegations and government leaders to China in order to secure a potentially lucrative part of China's growing trade. Germany sent a delegation to China in 1993, Japan's Emperor and Prime Minister visited in 1992 and 1994 respectively, both the French Prime Minister and Foreign Minister visited on separate occasions in 1994, and the Canadian Prime Minister visited in 1994.<sup>54</sup>

The increased emphasis on trade resulted in human rights issues being raised by most democratic states in bilateral discussions with Chinese officials rather than through the more public forums of human rights delegations. Leaders and high level officials from the US, Australia, France, Japan, the European Union (EU)<sup>55</sup>, Poland and Canada on visits to China from 1991 to 1994 raised human rights issues with the Chinese in these bilateral forums. The behind-closed-doors approach to communicating human rights concerns was clearly the preferred option of the Chinese government, if these concerns had to be raised at all. However, many democratic states were still reluctant to make

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<sup>52</sup> Japan has considered that its support for China's economic development (linked with the trade and investment that will benefit Japan) and political stability in East Asia have been more important priorities than confronting the Chinese over their human rights record. Japan's own human rights abuses in China, particularly during the Second World War, also explain the reticence of Japan to raise human rights with China in its bilateral relationship. See Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 85-105.

<sup>53</sup> The Chinese government interpreted this Declaration as reflecting greater military cooperation between the US and Japan, potentially against China if there was an escalation of tensions between China and Taiwan. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 200. See also Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* (23 June 1998 [cited 5 December 2001]); available from <http://www.hrichina.org/reports/dialogue.html>.

<sup>54</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 159. Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

<sup>55</sup> With the ratification of the Maastricht Treaty in 1992, the EC changed name to become the EU.

the bilateral approach the only forum through which they could express their concerns about human rights in China. The multilateral efforts of the UNCHR were largely supported by these states in the first half of the 1990s, in the hope that such joint action would not result in trade penalties to particular states for their involvement.<sup>56</sup> The European Parliament also took the opportunity to raise its concerns for human rights in China in 1993 through passing a resolution opposing China's bid for the 2000 Olympics.<sup>57</sup>

By 1995 the Chinese government's consistent message regarding their preference for the bilateral dialogue approach, and the increasing importance placed on pursuing lucrative trade agreements with China by democratic states, meant that China's preferred approach was gaining popularity with these states. The EU, and in particular its member states France and Germany, began to publicly express that progress on human rights in China would most likely be made if a human rights policy reflecting a more discreet approach was adopted.<sup>58</sup> From early 1996 it became obvious that these expressions were going to be reflected in declining support for the annual UNCHR resolution process and increased support for the more private forum of bilateral human rights discussions. This change in policy began to manifest itself in 1997 when some of the democratic states ceased their support for the annual UNCHR resolution and China began or resumed human rights dialogues with Canada, Australia, Norway, Brazil, Japan and the EU.<sup>59</sup> Australia was particularly eager to cease its support for

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<sup>56</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 166, 171. Even Japan played an active part in supporting draft resolutions at the UNCHR, although their support was probably a reflection of the importance that Japan placed on its relationship with the US which had taken a leading role in getting draft resolutions critical of China before the UNCHR. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 96, 99, 104. See the *UN Responses* section in this chapter for further detail on multilateral efforts.

<sup>57</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1993*.

<sup>58</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1995*. Human Rights Watch, *China: Human Rights Developments 1996*. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 71.

<sup>59</sup> US Department of State, *China Country Report on Human Rights Practices for 1997*. Sweden and China continued their legal cooperation programme in 1997, commenced the previous year despite Sweden co-sponsoring a resolution on China at the 1997 UNCHR session. China also began a human rights dialogue with the UK in 1997 despite the latter's support for the UNCHR resolution. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* See the *UN Responses* section for further discussion.

the resolution in 1997, reflecting the importance that trade with China had assumed in Australia's foreign policy by this stage.

#### Australian Government Responses

Consistent with the responses of most other democratic states in 1991 and 1992, the Australian government responded to reports of continued human rights abuses in China by raising human rights concerns with Chinese officials in bilateral discussions and sending human rights delegations to China. There followed a period of 'quiet diplomacy'<sup>60</sup> on human rights, also consistent with most other democratic states, as trade considerations grew in importance and China's lobbying efforts continued.

In February 1991 the Australian government lifted its remaining sanctions on China, except for those concerning defence visits and sales.<sup>61</sup> A key factor in this decision was China agreeing to host an Australian delegation in 1991 to investigate human rights abuses in China.<sup>62</sup> Australia was the first country from which China agreed to receive a delegation, possibly reflecting that Australia was a middle power in the international arena, not a member of the big power coalition of G7 nations or the European Community, and that China knew the importance to Australia of their economic relationship.<sup>63</sup>

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<sup>60</sup> This term was used by Ann Kent to describe Australia's human rights policy with China after the second Australian human rights delegation had visited China in 1992. Ann Kent, "Human Rights in Australia-China Relations, 1985-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), p. 61. Ann Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," in *Seeking Asian Engagement: Australia in World Affairs, 1991-95*, ed. James Cotton and John Ravenhill (Melbourne: Oxford University Press, 1997), p. 179.

<sup>61</sup> Colin Mackerras, "Australia and China," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), p. 217.

<sup>62</sup> Kim Richard Nossal, *The Beijing Massacre: Australian Responses* (Canberra: Australian National University, 1993), p. 47.

<sup>63</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* p. 2. China's invitation to the Australian delegation, and other countries' delegations that soon followed, is also likely to have been a reflection of China's desire to appease the US Congress which had been pressuring President Bush to deny China its MFN trading status unless there was an improvement in human rights. Peter Van Ness, "Australia's Human Rights Delegation to China 1991: A

The Australian human rights delegation was comprised of politicians, experts on Chinese law and politics, and a number of people proficient in the local languages. The overall aim of the first Australian delegation was to commence a constructive dialogue between Australia and China that included discussions on issues pertinent to each country's human rights record.<sup>64</sup> More specific aims included to highlight to the Chinese government that human rights were a legitimate concern and that China would be judged by the international community on their human rights record.<sup>65</sup> The delegation was allowed to visit two prisons and one youth detention centre, though access to any political prisoners was denied, and to visit Tibet.<sup>66</sup> However, as can be imagined, Chinese officials accompanied delegation members on these visits and meetings with any prisoners or local people appeared to be highly choreographed.<sup>67</sup> The main focus of the delegation was on civil and political rights, for example, the right to a fair trial and freedom from torture, but there was some discussion on economic, social and cultural rights such as having adequate food to eat. Almost two hundred prisoners of conscience had their cases raised during the delegation's visit and responses were received about some of these people. The Chinese government was also encouraged to ratify the major UN human rights instruments.<sup>68</sup>

The report of the delegation's visit was frank and included specific criticisms of Chinese law, the use of the death penalty, mistreatment of prisoners, the lack of respect for the freedoms of assembly and peaceful association, and pointed criticism of Tibet's human rights situation. Recommendations included that a second Australian delegation visit China and a Chinese delegation be invited to Australia, legal and

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Case Study," in *Australia's Human Rights Diplomacy*, ed. Ian Russell, Peter Van Ness, and Beng-Huat Chua (Canberra: Australian National University, 1992), p. 62.

<sup>64</sup> Commonwealth of Australia, "Report of the Australian Human Rights Delegation to China 14-26 July 1991," (Canberra: Australian Government Publishing Service, 1991), p. 1. Chris Sidoti, "Human Rights in China," *Reform*, no. Summer (1993), pp. 21-22.

<sup>65</sup> Gareth Evans, *Human Rights in the 1990s. Address by Senator Gareth Evans Minister for Foreign Affairs and Trade, to Amnesty International Australia, Sydney, on the Occasion of Amnesty International's 30th Anniversary, 26 August 1991*. (1991 [cited 5 December 2001]), available from <http://members.aol.com/merranev/HUMRIGHT.htm>.

<sup>66</sup> Van Ness, "Australia's Human Rights Delegation to China 1991: A Case Study," p. 69.

<sup>67</sup> Member of the Australian Human Rights Delegations to China in 1991 and 1992, Interview, Sydney, 26 March 2002.

<sup>68</sup> Sidoti, "Human Rights in China," p. 22.



judicial exchanges be investigated, and continued representations be made on individual cases and follow-ups on cases already raised occur. The report also included an acknowledgement of human rights improvements in China that encouraged Chinese officials to accept the report, despite their objections to the section on Tibet.<sup>69</sup>

In November 1992 a second Australian human rights delegation did visit China, comprised of a mix of politicians and experts on China similar to the first delegation, and once again civil and political rights were the main focus. The aims of the second delegation were to follow up the progress from the first delegation's recommendations, and to raise issues including the death penalty, legal procedures and human rights in Tibet and Xinjiang Autonomous Regions.<sup>70</sup> According to Chris Sidoti, a member of both Australian delegations, some improvements in attitudes of officials to human rights discussions were evident since the first delegation's visit.

We encountered a much greater willingness on the part of the Chinese officials to accept that there is a legitimate international interest in China's human rights record and to start looking at ways in which human rights can be improved within China.<sup>71</sup>

Other improvements evident included the human rights discussions in China's first human rights White Papers, more information being provided on prison and detention conditions, and the beginnings of various legal changes that promised to positively impact on human rights practices. Some human rights situations remained the same or had worsened, including the use of the death penalty, continued restrictions on

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<sup>69</sup> Ann Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue," *China Rights Forum*, Fall (1999), p. 31. Commonwealth of Australia, "Report of the Australian Human Rights Delegation to China 14-26 July 1991," pp. 37-38.

<sup>70</sup> Ibid. pp. 2-4. Sidoti, "Human Rights in China," pp. 21-22. The second delegation was refused permission to visit Tibet, in likely retaliation for Australia receiving the Dalai Lama in May 1992. Department of Foreign Affairs and Trade, "Australia's Relations with the People's Republic of China," (Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, 24 September 1993, Official Hansard Report, 29 October, 1993), p. 68.

<sup>71</sup> Sidoti, "Human Rights in China," pp. 23-24.

freedoms of expression, assembly and religion, the re-education through labour system, and human rights abuses in Tibet and Xinjiang.<sup>72</sup>

As with the first delegation's report, the report of the second delegation was thorough and recommendations included that dialogue on human rights in China and Tibet in particular continue, the minority regions again be visited, and that the Australian government continue to raise and seek feedback on individual cases of concern.<sup>73</sup> After the second delegation's visit to China, the Chinese government was invited to send their own human rights delegation to Australia. This invitation was declined and the human rights delegation process ceased.<sup>74</sup>

In addition to the human rights delegations to China, Australian Foreign Minister Evans was known in the early 1990s to have raised human rights issues in meetings with Chinese ministers. One account of such a meeting in 1992 between Evans and the Chinese Foreign Minister Qian Qichen illustrated the willingness of the Australian Foreign Minister to raise the sensitive topic of human rights in Tibet.

Evans said that since 1972 Australia had accepted that Tibet was part of China, but expressed deep concern at the human rights situation there and the decline of Tibetan culture and religion. Qian and Evans discussed a recent visit by the Dalai Lama to Australia, and while Evans said Australia understood Chinese sensitivity he said that China should talk to the Dalai Lama about preserving Tibet's culture and sincerely trying to eliminate human rights abuses. In closing, Evans suggested that if China were to cure the Tibetan illness it would not need to worry about the political symptoms.<sup>75</sup>

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<sup>72</sup> Commonwealth of Australia, "Report of the Second Australian Human Rights Delegation to China 8-20 November 1992," (Canberra: Australian Government Publishing Service, 1992), pp. 6-7, 18-19. Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue."

<sup>73</sup> Commonwealth of Australia, "Report of the Second Australian Human Rights Delegation to China 8-20 November 1992," pp. 84-86.

<sup>74</sup> Department of Foreign Affairs and Trade Officials, Interview, Canberra, 14 August 2001.

<sup>75</sup> From Record of Conversation 18 June 1992 between Evans and Qian, Department of Foreign Affairs and Trade archives, cited in David Dutton, "Human Rights Diplomacy", unpublished version, since

Australian officials visiting China on matters other than human rights in the early 1990s were also reported to have at least given their Chinese hosts lists of political prisoners the Australian government was concerned about.<sup>76</sup>

As with most other democratic states, from 1991 to 1996 Australia actively supported the UN human rights mechanisms in attempts to pressure China to improve its human rights record. This reflected Australia's identity as a democratic state and thus its connection with a concern for human rights. It also reflected the Australian government's rhetoric on the need to be a good international citizen and this concept's emphasis on international rules and institutions as a means of collective action against human rights abusers.<sup>77</sup>

Australia was a member of the UNCHR from 1991 to 1996 and so eligible to vote on resolutions concerning China's human rights abuses. Australia co-sponsored the draft resolutions over this period, as well as in 1989 and 1990. It also co-sponsored draft resolutions in the UNCHR's Sub-Commission from 1989 to 1996. With the end of Australia's membership of the UNCHR in 1996, Australia could not vote on resolutions in 1997 but could still have supported a resolution on China.<sup>78</sup>

Yet even with this support for the UN human rights mechanisms, from the early 1990s Foreign Minister Evans began to express concerns about the condemnatory language of the resolutions and promote cooperation and dialogue as a better human rights policy. 'Constructive dialogue' was preferred over public condemnation, and the need 'to establish common ground' on human rights with dialogue partners was

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published in Peter Edwards and David Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000* (Melbourne: Melbourne University Press, 2003).

<sup>76</sup> Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," p. 179.

<sup>77</sup> Tim Dunne and Nicholas J. Wheeler, "Blair's Britain: A Force for Good in the World?," in *Ethics and Foreign Policy*, ed. Margot Light and Karen E. Smith (2002), p. 6.

<sup>78</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* pp. 27, 94-95. Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue," p. 32. Ann Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," *Human Rights Quarterly* 23, no. 3 (2001), p. 615.

paramount.<sup>79</sup> This was undoubtedly in response to continued Chinese objections to the UNCHR and its Sub-Commission's resolution process.

Reflecting Evans' promotion of the dialogue approach, throughout the 1991 to 1997 period the Australian government made bilateral human rights representations to the Chinese government. These would usually be in the form of notes delivered by the Australian embassy to Chinese officials, addressed to the Chinese Foreign Minister, detailing a query over an individual group or situation. Most representations were based on AI urgent action cases and in 1994 AI Australia commented that all of its urgent action cases had indeed been raised by the Australian government.<sup>80</sup>

The preference for a less public and condemnatory approach became more evident in Australia's human rights policy with China after the second Australian human rights delegation had visited China in 1992. The Australian government's human rights policy regarding China became characterised by 'quiet diplomacy'.<sup>81</sup> For example, Prime Minister Keating's visit to China in 1993 focused on the promotion of trade between the two countries and human rights were only discretely mentioned.<sup>82</sup> Reflecting its growing interest in maximising its economic interests, the Australian

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<sup>79</sup> David Dutton, "Human Rights Diplomacy", unpublished version, since published in Edwards and Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000*. As early as 1991 Evans called for more practical-based approaches to human rights to be adopted, for example, judicial training on human rights. Evans, *Human Rights in the 1990s. Address by Senator Gareth Evans, Minister for Foreign Affairs and Trade, to Amnesty International Australia, Sydney, on the Occasion of Amnesty International's 30th Anniversary, 26 August 1991*.

<sup>80</sup> Amnesty International Australia, "Australia's Relations with the People's Republic of China," (Canberra: Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, October 1993, Official Hansard Report, 1 November, 1994), p. 786. Department of Foreign Affairs and Trade, *Human Rights Manual* (Canberra: Australian Government Publishing Service, 1993), p. 6. Alexander Downer, "Human Rights in Australian Foreign Policy," (Canberra: Department of Foreign Affairs and Trade, 1997). David Dutton, "Human Rights Diplomacy", unpublished version, since published in Edwards and Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000*.

<sup>81</sup> Kent, "Human Rights in Australia-China Relations, 1985-95," p. 61. Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," p. 179.

<sup>82</sup> Lachlan Strahan, *Australia's China: Changing Perceptions from the 1930s to the 1990s* (Cambridge: Cambridge University Press, 1996), p. 312.

government also actively lobbied the US to sever the link between human rights and the renewal of China's MFN trading status.<sup>83</sup>

Australia's trade relationship with China had long been a priority in its foreign policy. However, by the early 1990s the trade relationship was assuming even greater importance to the Australian government as the country's economy experienced problems due to recent structural adjustments. China's economic growth from 1992 was seen in Australia to be a solution to many of these problems.<sup>84</sup> Downturns in the economies of other developed countries meant that the growing Chinese economy became attractive to economies larger than Australia's as well, such as the EU and the US. Hence Australia became one of the many competitors for China's markets and no longer enjoyed the market share it had achieved in the mid 1980s.<sup>85</sup> Given that inflation rates by the early 1990s were making Australian exports less competitive, there was added pressure on the Australian government to foster good economic relations with the Chinese government.<sup>86</sup>

In 1996 the Coalition parties led by John Howard won government and Alexander Downer took over as Foreign Minister. The human rights policy direction promoted by Evans largely continued under Downer and in particular the search for practical solutions to bring about human rights improvements in other countries continued.<sup>87</sup> However, Downer's rhetoric on human rights marked a departure from Evans' emphasis on the importance of being a good international citizen. Downer's public statements declared that human rights concerns should not be expressed at the expense of Australia's national security and interests. Thus Australia would not be pursuing

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<sup>83</sup> Harry Harding, "Promoting Human Rights in Asia: American and Australian Approaches," in *Negotiating the Pacific Century: The 'New' Asia, the United States and Australia*, ed. Roger Bell, Tim McDonald, and Alan Tidwell (St Leonards: Allen and Unwin, 1996), p. 291.

<sup>84</sup> Ann Kent, "Australia-China Relations, 1966-1996: A Critical Overview," *Australian Journal of Politics and History* 42, no. 3 (1996), p. 370.

<sup>85</sup> Ross Garnaut, "Sino-Australian Economic Relations, 1983-95," in *Australia and China: Partners in Asia*, ed. Colin Mackerras (South Melbourne: Macmillan Education Australia, 1996), p. 79. Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," p. 171.

<sup>86</sup> Garnaut, "Sino-Australian Economic Relations, 1983-95," p. 90.

<sup>87</sup> David Dutton, "Human Rights Diplomacy", unpublished version, since published in Edwards and Goldsworthy, eds, *Facing North - a Century of Australian Engagement with Asia Volume 2: 1970s-2000*.

human rights ideals at the expense of its own interests.<sup>88</sup> The Howard government also made it clear that the implementation of Australia's human rights policy would be guided by the need to be practical about what Australia could achieve regarding human rights issues and stated that '[t]he objective of human rights policy should be to make a practical difference, not to posture'.<sup>89</sup> Rather than signaling a change in human rights policy regarding China, this rhetoric merely confirmed the direction that Australia had been travelling in. Trade considerations had been the priority in Sino-Australian relations for some time and would continue to be so. Therefore, Australia would be mindful of China's preferred approach to human rights policy.

By 1997 the Australian government considered China to be one of its four key partners (the others being the US, Japan and Indonesia), and wanted its level of engagement with China to reflect this.<sup>90</sup> Chinese investment in Australia and Australian investment in China was continuing to rise, as were export and import rates between the countries.<sup>91</sup> From the Howard government's point of view, China was not only an important economic partner but also a strategically important actor in the Asia-Pacific region since the end of the Cold War. By the mid 1990s concerns were growing in Australia regarding China's behaviour in the region and to what extent it might exercise its growing military power. There were also a number of sources of tension between Australia and China from 1992 to 1996. These included the great attention given to the Dalai Lama's visits to Australia in 1992 and 1996, reflecting the large

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<sup>88</sup> Downer, "Human Rights in Australian Foreign Policy."

<sup>89</sup> Department of Foreign Affairs and Trade, *In the National Interest: Australia's Foreign and Trade Policy White Paper* (Canberra: Commonwealth of Australia, 1997), p. 14. Downer argued in 1996 that the government had to choose the most effective means of promoting human rights with other states on a case-by-case basis: 'What I will not do...is engage in sloganeering just for the sake of winning a few pats on the back, because the result will often be to limit Australia's influence.' Alexander Downer, *Strengthening Australia's Human Rights Credentials. Address by the Hon Alexander Downer, MP, Minister for Foreign Affairs to a Forum on Australia's Human Rights Obligations for Human Rights Day, National Press Club, Tuesday 10 December 1996.* (1996 [cited 5 December 2001]); available from [http://www.dfat.gov.au/media/speeches/foreign/1996/AMNESTY\\_.html](http://www.dfat.gov.au/media/speeches/foreign/1996/AMNESTY_.html).

<sup>90</sup> Department of Foreign Affairs and Trade, *People's Republic of China: Overview of Bilateral Relations* (2000 [cited 8 June 2000]); available from <http://www.dfat.gov.au/geo/china/bilateral.html>.

<sup>91</sup> For example, as at June 1998 Chinese investment in Australia was \$A2.4 billion, up 92 percent from 1996/1997, and Australian investment in China was \$A1.2 billion. By 1999 trade between Australia and China was \$A10.7 billion, up 11.5 percent from the previous year. Department of Foreign Affairs and Trade, *People's Republic of China: Trade and Investment* (2000 [cited 8 June 2000]); available from <http://www.dfat.gov.au/geo/china/invest.html>.

amount of support for him within Australia. Both the Prime Minister and the Foreign Minister held discussions with the Dalai Lama on his second visit, resulting in the Chinese government issuing strong wordings of protest. Another source of tension was the Howard government's decision to scrap the Concessional Finance Facility (CFF) that drew complaints from Australian businesses and the Chinese embassy on behalf of Chinese enterprises who had begun trading on the basis of this scheme.<sup>92</sup> The Australian government's growing relationship with Taiwan in the early 1990s was also a source of tension in Sino-Australian relations, for example, trade between Australia and Taiwan was greater than that between Australia and China for most of the 1985 to 1996 period. In order to minimise any Chinese reaction to this relationship, the Australian government took pains to ensure its relationship with Taiwan was not seen as formal recognition of its separateness from China. Despite this, the Chinese government did on occasion negatively comment on the Taiwan-Australian relationship, including warnings that official Australian ministerial visits to Taiwan were not acceptable. In addition, Australia's closer ties to the US under the Howard government were a cause for concern to the Chinese government.<sup>93</sup>

With these evident sources of tension between Australia and China and Australia's concerns about China's intentions in the region, by the end of 1996 the Australian government felt that it needed to increase its level of engagement with China.<sup>94</sup> This began in March 1997 with Prime Minister Howard visiting China accompanied by a large business delegation. Talks with Chinese leaders avoided offending Chinese sensitivities and strong emphasis was placed on the economic relationship between the

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<sup>92</sup> The CFF was a scheme that offered Australian government assistance to projects in particular developing countries, including China. In response to protests, Foreign Minister Downer announced that one or two projects in some nations, including China, could still proceed with such government assistance. W. Ross Johnston and Geoffrey Stokes, "Problems in Australian Foreign Policy: January - July 1997," *The Australian Journal of Politics and History* 43, no. 3 (1997), pp. 295-96. Mackerras, "Australia and China," pp. 218, 224.

<sup>93</sup> Johnston and Stokes, "Problems in Australian Foreign Policy: January - July 1997," p. 296. Mackerras, "Australia and China," pp. 221, 224.

<sup>94</sup> Australian concerns about China's intentions in the region were fuelled by China's military build-up, the Mischief Reef dispute between China and the Philippines, the Chinese missiles fired near Taiwan and the anger publicly expressed by China in response to the private US visit of the Taiwanese President. Kent, "Australia and China, 1991-95: Asymmetry and Congruence in the Post-Cold War Era," p. 173.

two countries. There was little focus on human rights by the Australian leader, in response to warnings from the Chinese government about raising this issue.<sup>95</sup> One acceptable exception to the Chinese was Prime Minister Howard's proposition to Chinese Premier Li Peng that there be a regular human rights dialogue between the two countries, reflecting the long-stated preferred Chinese human rights policy option. Premier Li Peng agreed but 'Chinese officials hinted that resumption of talks would be contingent on Australia's attitude towards the annual UNCHR resolution critical of China's human rights record.'<sup>96</sup> The Chinese foreign ministry reportedly outlined that Australia's continued support for a UNCHR resolution would be perceived as confrontational and would damage the countries' relationship.<sup>97</sup> Given this pressure, ten days later the Australian government did not support the UNCHR resolution and actively lobbied other previous co-sponsors of the resolutions to also cease their support and adopt the bilateral dialogue approach with China.<sup>98</sup>

### UN Responses

As discussed in the preceding section, a consistent response of many democratic states to reports of continuing human rights abuses in China and NGO lobbying was to support a resolution critical of China at the UNCHR from 1992 to at least 1996. The expert members of the UNCHR Sub-Commission supported a resolution on China in that forum in 1991 and 1993. As was seen in the last chapter, in 1991 a resolution on China was not sponsored at the UNCHR by the US and its allies due to China's support at the UN Security Council regarding the Gulf War. In 1990 China had been successful in preventing the resolution at the UNCHR from going to the vote with its no action motion. Despite this failure to censure China, in August 1991 the UNCHR's Sub-Commission passed another resolution of concern at reports of continuing human rights abuses in China, this time focusing on Tibet. The Chinese officials present at

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<sup>95</sup> Johnston and Stokes, "Problems in Australian Foreign Policy: January - July 1997," p. 296.

<sup>96</sup> Ibid. p. 295.

<sup>97</sup> Laura Tingle, "Human Rights Rebuff Mars PM's Final Day in China," *The Age*, 2 April 1997.



the Sub-Commission once again vigorously lobbied against the resolution and almost succeeded as the resolution only passed by a small majority. The successful vote on the resolution meant that its concerns were subsequently passed to the UNCHR for consideration at its March 1992 meeting.<sup>99</sup>

The EC sponsored a resolution on Tibet at the 1992 UNCHR meeting but given that the resolution was clearly based on the views of the Tibet lobby, it generated much argument within the democratic states' delegations. In particular the US, Australia and Japan felt they could not support a draft that conflicted with their support for the 'one-China' policy. Thus the final resolution to be sponsored included a more general emphasis on human rights in China, as well as human rights in Tibet in particular. But despite this modification, China was still able to lobby for a successful no-action motion that easily attracted the majority of positive votes. This reflected the increase in the number of UNCHR members in 1991 from 43 to 53, with all of the new members being developing countries, and the support that China was now beginning to receive from an increasing number of developing countries.<sup>100</sup>

At the 1992 Sub-Commission session, despite NGOs' lobbying efforts, a resolution on China was not tabled. However, a resolution critical of China's human rights record was sponsored at the UNCHR in early 1993, this time by the EU, Costa Rica and Japan with active support from the US. The resolution focused on human rights in China without any mention of Tibet. China again lobbied successfully, but it's no action motion passed with a reduced margin of positive votes than in the preceding year.<sup>101</sup>

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<sup>98</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* p. 28.

<sup>99</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 215. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 133.

<sup>100</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 172. Information Office of the State Council of the People's Republic of China, *Historic Sovereignty and the Human Rights Situation in Tibet* (Beijing: Foreign Languages Press, 1992).

Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 64. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 113-14.

<sup>101</sup> In 1992 the no-action motion passed with 27 votes in favour, 15 against and 10 abstentions. In 1993 the votes were 22 in favour, 17 against and 12 abstentions. Foot, *Rights Beyond Borders: The Global*

NGOs once again lobbied to get a resolution on Tibet adopted at the Sub-Commission later in 1993. Chinese officials also lobbied hard to prevent the resolution, raising political issues pertaining to the relationships between China and the states that Sub-Commission experts represented. This partially reflected that the IOC vote on the site for the 2000 Olympics was about to be made and Beijing was considered to be a strong contender. Therefore, the Chinese government did not want a public expression of criticism of its human rights record leading up to this decision. In a statement during the 1993 Sub-Commission session, Claire Palley, the British expert, said that Chinese officials had made threats to her that all dialogue between the Chinese government and Tibet, and the government and the Sub-Commission, would cease if a secret vote on the draft resolution proceeded. In addition, the Chinese Ambassador had made it clear that the governments of all the Sub-Commission's experts would be held accountable for the result of any secret ballot, despite the independence of the experts. Louis Joinet, the French expert, stated that he too had received such threats.<sup>102</sup> There were also other reports of Western government officials being lobbied by their Chinese counterparts, during which it was made clear that trade relationships may be jeopardized by votes in favour of a resolution on China. This intense lobbying paid off, resulting in a secret vote for a no-action motion which passed by a great majority (17 in favour, six against and two abstaining). The political nature of the lobbying and the outcome of the vote resulted in the Sub-Commission's decision to cease discussing specific country situations that the UNCHR were dealing with. The lobbying of the Chinese officials had clearly worked – they would no longer have to deal with criticism targeting their country in the Sub-Commission forum. Despite the failure of the resolution process in the Sub-Commission, a draft resolution was again raised at the UNCHR meeting in 1994, this time on human rights in China generally. China sponsored its own no-action motion this time, possibly

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*Community and the Struggle over Human Rights in China*, pp. 172-74. Human Rights Watch, *China and Tibet: Human Rights Developments 1993*.

Zhang Zhengdong, "Unjust Cause Finds Little Support," *Beijing Review* 36, no. 12 (1993), p. 10.

<sup>102</sup> Ann Kent, "China and the International Human Rights Regime: A Case Study of Multilateral Monitoring, 1989-1994," *Human Rights Quarterly* 17, no. 1 (1995), p. 36. Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue," pp. 68-69.

emboldened by its success in the Sub-Commission, and the motion was again passed but by one less vote in favour than the previous year.<sup>103</sup>

In the wake of the Clinton administration's removal of the link between human rights and China's MFN status, the 1995 UNCHR meeting was preceded by considerable US lobbying for support of a resolution on China. Chinese officials continued to place much effort into their lobbying, for example, some aspects of the trade relationships between China and EU member states were reportedly threatened if a resolution was supported by these states. Despite the extensive Chinese lobbying, and perhaps because of the considerable US lobbying, the vote on the no-action motion this time was tied meaning that the motion was effectively defeated. Therefore, for the first time a resolution on human rights in China at the UNCHR could be voted on. However, the subsequent vote resulted in the resolution being defeated by one vote.<sup>104</sup>

The Chinese continued their vigorous lobbying prior to the 1996 UNCHR session. When China urged the French and German governments to neither raise nor support a resolution, they reportedly agreed if China made some concessions.<sup>105</sup> Despite the Chinese only making what was reported as a 'somewhat vague and general commitment' to the idea of these concessions, the EU delayed beginning the lobby process necessary to garner sufficient support for a resolution.<sup>106</sup> The US also delayed any lobbying action. The EU and the US did eventually sponsor a resolution at the 1996 UNCHR session when it became clear that China was not going to act on their offer of concessions. However, their delays in lobbying were reflected in the voting for China's subsequent no-action motion that passed with 27 votes in favour, twenty

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<sup>103</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 174-75. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 70, 74.

<sup>104</sup> This was the result of China's successful lobbying of Russia who subsequently changed its support from the Western-led resolution to China's opposition to it. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 48, 115. See also Human Rights Watch, *China and Tibet: Human Rights Developments 1995*.

<sup>105</sup> Human Rights Watch, *China: Human Rights Developments 1996*. These concessions reportedly included the ratification of the two International Covenants and invitations to the High Commissioner for Human Rights and the UN Working Group on Arbitrary Detention to visit China. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 76.

<sup>106</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 194.

against and six abstentions, an increase of seven votes in favour of the motion from none in the 1995 session.<sup>107</sup>

A significant turning point in the UNCHR process was reached in 1997 when the support for a resolution on China by democratic states began to decline. Chinese officials continued their lobbying efforts leading up to the 1997 UNCHR session, visiting or receiving visits from many Latin American and African member countries.<sup>108</sup> In the wake of China's promise to recommence a bilateral human rights dialogue with the EU if it did not support a resolution critical of China's human rights record, France, followed by Germany, Spain and Italy, broke the united EU front and announced they would not support an EU draft resolution.<sup>109</sup> This decision had been preceded by indications from the French government that it would prefer a cooperative rather than confrontational strategy to be adopted in its relations with China. In late 1996 the German government had intimated the same, as well as signed various agreements with the Chinese government in the areas of finance and technology. In response to this decision, and the desire of the Chinese government to ensure the success of the imminent US visit of President Jiang Zemin, China subsequently announced that it intended signing the ICESCR that year, was considering doing the same with the ICCPR, would resume discussions with the ICRC and accept a visit from the UN High Commissioner for Human Rights, and would commit itself to a cooperative discussion-based approach to human rights with France. China was responding more to the decision of the EU member states to not support a resolution on China at the UNCHR than offering a concession because of the EU adoption of the bilateral approach. Thus China was offering a concession to reward the EU states for not supporting the very public form of criticism at the UNCHR rather than offering a

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<sup>107</sup> Human Rights Watch, *China: Human Rights Developments 1996*.

Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 48-9, 122.

<sup>108</sup> At the 1996 UNCHR session, the Latin American members had either voted against China's no-action motion or abstained, while all but one of the African members voted for China's motion. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 197.

<sup>109</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 76.

concession due to the bilateral approach. The Chinese government also subsequently awarded France a \$US1.5 billion aeroplane contract in May 1997.<sup>110</sup>

Given an increase in friction between the US and China the previous year over Taiwan, the US administration was also keen to take a more passive stance on human rights in China by early 1997 in order to improve relations. However, the US administration felt that it had to support a resolution at the UNCHR session in March, possibly due to its preferred engagement policy with China not receiving the domestic support it would have liked.<sup>111</sup> With US support, and in the absence of an EU resolution, Denmark subsequently introduced a draft resolution on China and others including the UK<sup>112</sup>, Sweden, the Netherlands, Austria, Portugal, Ireland and Luxembourg agreed to co-sponsor it. In addition to the EU states that would not support the resolution, Australia, Canada and Japan also declined to give their support. All of these governments publicly stated that the resolution process was no longer effective and bilateral measures would have more influence over China's human rights practices.<sup>113</sup> Given the decreasing support for criticising China at the UNCHR, China's subsequent no-action motion not surprisingly was passed with the largest majority it had ever attained (27 in favour of the motion, seventeen against and nine abstentions).<sup>114</sup>

Following on from its expressions of concerns in 1990, the ILO again highlighted concerns regarding workers' rights in China in 1994, including the detention of

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<sup>110</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 79, 101-2. See also Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 198-200, 204. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

<sup>111</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 202.

<sup>112</sup> The UK's support for the resolution reflected that Hong Kong's return to Chinese rule was only several months away. Ibid. p. 203.

<sup>113</sup> Behind this decision for Australia was the growing importance of its trade relationship with China, as well as the desire to smooth over the various sources of tension in the bilateral relationship by the beginning of 1997. The Japanese government was also keen to improve its relations with the Chinese government which had been strained in 1996 due to the US-Japan Joint Declaration on defence cooperation. Ibid. p. 200. See also Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

<sup>114</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

members of non-official workers' organisations. In response to the concerns of the ICFTU and the ITWF placed before it, in 1995 the ILO requested the Chinese government compensate three seamen who had been detained for two and a half years before their release for their participation in a dispute over being beaten and underpaid by the foreign owners of the vessel they had worked on.<sup>115</sup>

Other UN bodies also focused on human rights in China throughout the 1990s. As mentioned in Chapter Four, the Special Rapporteur on Summary and Arbitrary Executions, the UNCAT and the Special Rapporteur on Torture all included a discussion on China in their 1991 reports. The Chinese government submitted to the UN Committee Against Torture in 1992 the details the Committee had requested in 1990, two and a half years late. A greater degree of detail was evident compared to China's first report in 1990, including the number of cases of torture investigated by procuratorates. This represented China's acceptance that it needed to respond to a UN body. The UN Committee Against Torture responded by commending China for the detail of their report but also called for the Chinese government to take actions to prevent the further use of torture. China's subsequent report to the UN Committee in 1995 was followed by a Committee response that again commended the detail of China's report, acknowledged the legislative and structural improvements within China's judicial system that were designed to minimise acts of torture, but also highlighted the disturbing NGO reports of continued and widespread cases of torture in China.<sup>116</sup> From 1992 to 1995 the Special Rapporteur on Torture again communicated with the Chinese government regarding the allegations of the use of torture, and from 1993 to 1997 included in his annual report his concerns and actions taken in response to human rights abuses in China. In 1995 the Special Rapporteur on Torture also requested permission from the Chinese government to visit, but by 1997 permission was still being denied.<sup>117</sup> The Special Rapporteur on Religious Intolerance also included China in his annual reports in the early 1990s and in 1994 his offer to

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Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 77.

<sup>115</sup> Ibid. pp. 134-35.

<sup>116</sup> Ibid. pp. 97, 99, 104.

visit China was accepted. This was the first time that a Special Rapporteur had been invited to visit China. The visit the following year resulted in a report by the Special Rapporteur publicly acknowledging some progress in the area of religious freedom in China, as well as recommending that China's constitution be altered to ensure that freedom of religion was respected, and that the Chinese government take an active role in bringing about religious tolerance in Chinese society, and in particular, the prison system.<sup>118</sup>

The Special Rapporteur for Extrajudicial, Summary and Arbitrary Executions included particularly critical discussions on China in his reports in the first half of the 1990s and, perhaps not surprisingly, his requests to be invited to visit China each year from 1992 to 1995 were not answered. The Working Group on Arbitrary Detention also unsuccessfully requested an invitation to visit China. In 1993 and 1994 the Working Group declared that the re-education through labour system of detention in China was arbitrary and violated the UDHR and the ICCPR. In addition it described the detention of two prominent Chinese dissidents as arbitrary in 1993.<sup>119</sup> In 1995 the Working Group communicated with the Chinese government concerning reports of individuals who had been arbitrarily detained.<sup>120</sup> By 1996, however, the Chinese government did agree to allow the UN Working Group on Arbitrary Detention to visit China.<sup>121</sup> This was just prior to the renewal of the Working Group's mandate in 1997 and the renewal was to reflect the lobbying efforts of Chinese officials. The result of the renewal were changes to the body's mandate so that

rather than take "decisions" on whether a case of detention was arbitrary, it would now express its "views" on such cases. Governments were invited to "pay attention to the recommendations of the Working Group concerning

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<sup>117</sup> The 1996 and 1997 reports were not as critical previous reports, however, perhaps indicating the Special Rapporteur's desire for a visit to China. *Ibid.* pp. 109-10.

<sup>118</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 179-80. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 113.

<sup>119</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 181-83.

<sup>120</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 112.

<sup>121</sup> Human Rights Watch, *China: Human Rights Developments 1996*. This visit occurred in October 1997. See Chapter Six for details.

persons mentioned in its report” rather than urged to comply with its recommendations.<sup>122</sup>

1995 was the most significant year of action on human rights in China by the UN Special Rapporteurs and Working Groups – that year all of these bodies included China in their reports.<sup>123</sup> In early 1995 the UN Working Group on Enforced or Involuntary Disappearances reported on three cases of disappearances in China so far that year and continued to review 56 other cases, mostly from 1988 to 1990. The Chinese government was still to provide a credible account of what happened to these people.<sup>124</sup>

Despite the impact of Chinese lobbying on the Working Group on Arbitrary Detention, the UN Special Rapporteurs and Working Groups were less influenced by Chinese lobbying throughout 1991 to 1997 because they were mostly comprised of human rights experts rather than state officials. Therefore, these bodies largely maintained a focus on human rights in China through to the end of this time period, in contrast to the UNCHR where the annual resolution process targeting China was losing the support of its democratic members by 1997. The UNCHR’s Sub-Commission had already had its workings curtailed by effective Chinese lobbying in 1993 when it ceased to discuss specific country situations that were being dealt with by the UNCHR. Then in 1997 a resolution introduced by a Chinese delegate calling for the cessation of the “politicisation” of human rights at the Sub-Commission and that constructive dialogue between members and state and NGO observers at the Sub-Commission should be promoted as the means for discussing human rights was

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<sup>122</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 205-6. See also Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* and John Tessoro and Susan Woolfson (Eds), *Issues before the 52nd General Assembly of the United Nations* (Lexington: Lexington Books, 1997). This was the same year as the Working Group’s visit to China. See Chapter Six for further detail.

<sup>123</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 179.

<sup>124</sup> US Department of State, *China Country Report on Human Rights Practices for 1996* (1997 [cited 29 September 2003]); available from [http://www.state.gov/www/global/human\\_rights/1996\\_hrp\\_report/china.html](http://www.state.gov/www/global/human_rights/1996_hrp_report/china.html).



passed.<sup>125</sup> In regards to the UNCHR, China's vehement opposition to its annual process translated into the effective lobbying technique of linking the growth of other states' trade relationships with China to their UNCHR voting intentions, as appeared to be evident with France and Germany. By 1997 support for resolutions on China at the UNCHR was also being sacrificed by governments such as Australia and Japan in attempts to improve previously strained relations with the Chinese government. The strength of the reaction of the Chinese government to the resolution process was an indication that despite not one resolution critical of China being passed at the UNCHR, it was effective in communicating to the Chinese government international concerns over its human rights record. However, China's lobbying efforts also proved to ultimately be effective. In 1998 the EU, the US and the other democratic states declined to sponsor a resolution on China at the UNCHR. Relatively few states sponsored any further UNCHR resolutions on China in subsequent years.

### **The Chinese Government's Tactical Concessions and Other Responses to the Transnational Human Rights Network**

Aside from its vigorous lobbying efforts and reactions concerning the annual UNCHR resolutions,<sup>126</sup> the Chinese government responded to its external and internal critics by promoting its own understandings of international human rights norms, criticising its critics including highlighting the human rights records of other governments, attempting to influence the activities of some of the UN human rights bodies, and detaining anyone considered to have played an active part in the June 1989 demonstrations or involved in similar activities since. The Chinese government also made the tactical concessions of releasing particular political prisoners at various times and made some attempts to minimise abuses in the judicial system.

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<sup>125</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 74-75.

<sup>126</sup> This lobbying was so vigorous that in some instances it was perceived as intimidation by other state diplomats and human rights experts who were visited by Chinese officials. *Ibid.* p.69.

As outlined in Chapter Four, in 1991 the Chinese government began to significantly explore and promote its own views on human rights. Internal discussions on human rights included a conference on human rights at the Law Faculty of the People's University in Beijing in April, a forum on human rights in Beijing held by Chinese religious leaders, two visits to the US by Chinese academics to discuss human rights issues, and the planning of a Centre of Human Rights Studies in China. The official Chinese government stance on human rights was that the rights to subsistence and development, expressed as both collective and individual rights, and a country's right to be independent were essential before there could be any other human rights.<sup>127</sup> Concerning the realisation of the right to development, the Chinese government proposed that 'a new international political relationship' needed to be established 'based upon mutual respect, seeking common ground while preserving differences, mutual non-interference in each other's internal affairs, peaceful co-existence, equality, mutual benefits and co-operation among states.'<sup>128</sup> These were themes that the Chinese continued to raise and develop throughout the 1990s.

The early to mid-1990s saw the Chinese government continue the nationalist rhetoric it began immediately after the Tiananmen Square by emphasising the suffering that China had endured at the hands of the colonial powers. Much effort was placed into generating a Chinese media display of historic battles against foreign aggressors. Patriotism and martyrdom were celebrated and the importance of national pride was impressed upon China's youth. These efforts resulted in a resurgent nationalism that included a discussion on what "Chineseness" meant. The consequences of this included the development of a cultural theory by some Chinese writers that reflected a

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<sup>127</sup> Beijing Review, "Top Leaders on Human Rights Issues," *Beijing Review*, April 22-28 1991, p. 7. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 145. Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 222. Zhang Yishan, "On the Right to Development: Speech at the 47th Session of Unchr," *Beijing Review* 34, no. 12 (1991), pp. 8-9.

<sup>128</sup> Ibid. p. 8. See also Li Daoyu, "The Right to Development an Inalienable Human Right: Speech by the Chinese Ambassador to the United Nations at the 47th Session of the United Nations General Assembly December 2 1992," *Beijing Review* 35, no. 51 (1992), pp. 8-9. Liu Fenzhi, "Right to Subsistence Should Be Given Priority," *Beijing Review* 36, no. 25 (1993), pp. 9-10. Qian Qichen, "Establishing a Just and Equitable New International Order: Speech by Foreign Minister Qian Qichen at the 46th Session of the United Nations General Assembly on September 25 1991," *Beijing Review* 34, no. 40 (1991), pp. 7-12.

postcolonial anti-Western stance, and the revival of various Chinese cultural practices.<sup>129</sup>

One very significant attempt of China to promote its own understandings of international human rights norms that included an emphasis on China's experiences of being colonised, was the publication in October 1991 of China's first White Paper on human rights. The White Paper summarised the Chinese government's views on human rights that had been expressed at the 1990 conferences,<sup>130</sup> and was aimed at an international and domestic audience.<sup>131</sup> The Paper sought to express and establish human rights priorities, with the right to subsistence being promoted as the most important right to be realised before any other rights can be considered. The right to subsistence represented the right to have enough to eat and to have warm clothes as well as the right to be physically secure, that is, to be free from imperialist aggression.<sup>132</sup> The abuses suffered in China under colonialism, feudalism and 'bureaucrat-capitalism' were highlighted and that the establishment of the People's Republic of China in 1949 had allowed for the improvement of human rights in China. While lauding the concept of universal human rights, the White Paper also pointed out that a country's particular 'historical, social, economic and cultural conditions' necessarily influenced its understanding of human rights and its human rights practices. Further, the concept of human rights was claimed to be an internal matter

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<sup>129</sup> These practices included *qigong* meditations, out of which the Falun Gong group developed. See Chapter Six for further discussion on the Falun Gong and the government repression that its practitioners suffered. Vivienne Shue, "Global Imaginings, the State's Quest for Hegemony, and the Pursuit of Phantom Freedom in China: From Heshang to Falun Gong," in *Globalization and Democratization in Asia: The Construction of Identity*, ed. Catarina Kinnvall and Kristina Jonsson (London: Routledge, 2002), pp. 215-17.

<sup>130</sup> As mentioned in Chapter Four, this is not to suggest there was unanimous agreement at these academic conferences on human rights issues. There were considerable debates on issues such as prioritizing economic and social rights over civil and political rights. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 148-55.

<sup>131</sup> The entire White Paper was published in English as well as Chinese, and was included over several days in the Chinese newspaper *People's Daily*. It was also reprinted in the English language magazine *Beijing Review*. Information Office of the State Council of the People's Republic of China, "Human Rights in China," *Beijing Review* 34, no. 44 (1991), pp. 8-45. Kent, *Between Freedom and Subsistence: China and Human Rights*, p. 230.

<sup>132</sup> Information Office of the State Council of the People's Republic of China, "Human Rights in China," pp. 11-12.

for a state and therefore fell under the state sovereignty principle.<sup>133</sup> This was a clear message to Western states, particularly those that had colonised other countries in the past, that they had no grounds to criticise China's human rights practices.

Despite the right to subsistence being given top priority by the White Paper, the importance of realising civil and political rights as well as economic, social and cultural rights was emphasised. The civil and political rights that Chinese citizens were considered to have included the freedoms of speech, assembly, demonstration, the press and religion, the right to vote in democratic elections, the right of defense for the accused, minority rights and prisoners' rights. The use of torture to extract confessions was specifically mentioned as being prohibited under Chinese law. It was also explained that there were no "political prisoners" in China, only those imprisoned for committing "counter-revolutionary" crimes that jeopardised state security. The Paper detailed China's involvement in the international human rights regime, including its contributions to the drafting of a number of UN human rights instruments such as the UNCAT and the Declaration on the Protection of Rights of Persons Belonging to National, Ethnic, Religious, and Linguistic Minorities.<sup>134</sup>

China's first White Paper on human rights represented the government's acceptance that an international focus on human rights could not be ignored. It also represented the Chinese government's acknowledgement of the normative validity of not just economic and social rights but also civil and political rights as well. In addition, the White Paper illustrated how the Chinese government had decided to deal with its international and domestic critics – by debating the priorities of international human rights norms and arguing that human rights were an internal state matter.<sup>135</sup> The right to subsistence would continue to be given priority in Chinese government papers and statements throughout the 1990s, and Western states critical of China's human rights record would be reminded of their own states' human rights abuses in their colonial past and the state sovereignty principle.

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<sup>133</sup> Ibid. pp. 8-9.

<sup>134</sup> Ibid. pp. 13-42.

<sup>135</sup> Kent, *Between Freedom and Subsistence: China and Human Rights*, pp. 222-30.

In 1992 two more White Papers on human rights were produced by the Chinese government in response to its external critics, *The Reform of Criminal Offenders in China*, and *Tibet – Its Ownership and Human Rights Situation*. The former White Paper claimed that the Chinese criminal system was successfully reforming those who had committed crimes, including the use of reform through labour, though it also acknowledged that there had been at least some instances of abuses of individuals by law enforcement agencies in 1990 and 1991. In addition, the Paper on crime claimed that further economic development and improvements in the legal system would make the criminal reform system even more effective.<sup>136</sup> The White Paper on human rights in Tibet was produced in response to the resolutions at the UNCHR Sub-Commission in 1991 and the UNCHR in 1992 that had included criticisms of China's human rights record in Tibet.<sup>137</sup> It emphasised that Tibet had been under Chinese jurisdiction since the thirteenth century and therefore those who had been calling for Tibet's independence had no grounds to do so, and that Tibetans had benefited economically and socially from central Chinese rule. In direct contrast to its critics, the Chinese government also stated that it respected the freedom of religious belief but that anyone engaged in activities that 'endangered social security and disrupted public order' in the name of religion would be prosecuted.<sup>138</sup>

In addition to the publication of these White Papers, in the early 1990s the Chinese government began to increasingly challenge its human rights critics, particularly the US, on the grounds of their own human rights records and their intentions in criticising China. In early 1991 the Chinese Foreign Minister publicly highlighted the hypocrisy of the US government criticising China's human rights record while refusing to ratify the major UN human rights conventions itself. In 1992 Chinese officials at the UNCHR's Sub-Commission responded to the resolution critical of China's human

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<sup>136</sup> Information Office of the State Council of the People's Republic of China, "The Reform of Criminal Offenders in China," *Beijing Review* 35, no. 33 (1992), pp. 9-24.

<sup>137</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 172.

<sup>138</sup> Information Office of the State Council of the People's Republic of China, "Tibet - Its Ownership and Human Rights Situation," *Beijing Review* 35, no. 39 (1992), pp. 9-42.

rights record by claiming that the US violated human rights and so had no right to focus on China's situation.<sup>139</sup> The following year the US and other Western states were accused of trying to hinder China's economic development through their support for another resolution at the UNCHR.<sup>140</sup> This particular criticism was repeated after each of the UNCHR session from 1994 to 1997.<sup>141</sup> Other responses to critics included that Western states should not impose their ideas of human rights on to others, support for a resolution on China was an attack on all developing countries, and human rights concerns should be dealt with through the dialogue approach.<sup>142</sup> These criticisms were repeated at various times throughout the 1991-1997 period in articles by Chinese officials in the English language magazine *Beijing Review*.<sup>143</sup> Criticisms were also leveled at some of the major international human rights NGOs. For example, along with the US, HRW and AI were accused of maintaining a Cold War mindset that predisposed these actors to be prejudiced against China.<sup>144</sup> In an attempt to counter NGO criticisms, in 1993 the Chinese government established its own "NGO", the China Society for Human Rights Studies (CSHRS), which proceeded to frame human

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<sup>139</sup> *Beijing Review*, "US Official's Allegations Refuted," *Beijing Review*, March 2-8 1992, p. 23. Ren Bian, "Human Rights: No Action, Big Victory for China," *Beijing Review* 39, no. 20 (1996). A further example was the publication in *Beijing Review* in April 1996 of an article that compared human rights in China and the US and concluded that China had a better record. See Ren Yanshi, "A Comparison of Human Rights in China with Those in the United States," *Beijing Review* 39, no. 14 (1996), pp. 10-15.

<sup>140</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 174.

<sup>141</sup> *Beijing Review*, "Western Anti-China Draft Rejected," *Beijing Review*, March 21-27 1994, p. 37. *Beijing Review*, "China: Human Rights Not in Politics Arena," *Beijing Review*, February 27-March 5 1995, p. 4. *Beijing Review*, "Anti-China Attempt Foiled in Geneva," *Beijing Review*, May 5-11 1997, p. 5. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 177-78. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 82.

<sup>142</sup> *Beijing Review*, "China: Human Rights Not in Politics Arena," p. 4. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 177-78, 192, 196-97.

<sup>143</sup> For example, see Information Office of the State Council of the People's Republic of China, "Another U.S. Attempt to Use Human Rights to Create Confrontation," *Beijing Review* 40, no. 14 (1997), pp. 10-15. Liu Wenzong, "U.S. 'Diplomacy of Human Rights'," *Beijing Review* 35, no. 23 (1992), pp. 7-11. Ren Yanshi, "A Comparison of Human Rights in China with Those in the United States," pp. 10-15. Yu Quanyu, "China Leads the U.S. in Human Rights," *Beijing Review* 37, no. 40 (1994), p. 24. *Zhong Wen*, "Riots Call Judicial System into Question," *Beijing Review* 35, no. 19 (1992), p. 13.

<sup>144</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 140, 152-53. See also the response of the China Society for Human Rights Studies in August 1996 to Human Rights Watch/Asia's 1996 reports on human rights abuses in China. This response was largely a denial of the content of the human rights NGO's reports and an accusation that it was spreading lies. *Beijing Review*, "Human Rights Watch/Asia Report Refuted," *Beijing Review*, August 26-September 1 1996, pp. 9-10.

rights discussions in terms of official government policy.<sup>145</sup> The CSHRS gained special consultative status at the UN Economic and Social Council, produced studies on human rights, established links with overseas academics and state bodies, and consistently promoted the Chinese government's views on human rights.<sup>146</sup>

The Chinese government also began to cultivate alliances with other non-Western states in the early 1990s, particularly the South-East Asian governments of Indonesia, Malaysia and Singapore, in order to create a greater degree of opposition to Western views on human rights. These governments had also been on the receiving end of Western criticisms regarding their human rights records.<sup>147</sup> China encouraged this alliance to highlight the human rights abuses resulting from racism, colonialism and foreign aggression, that the state sovereignty principle must be respected, that each country had the right to choose their own political system and path to economic development, the importance of the right to development, and that the UN human rights mechanisms should not be used to make political attacks on countries.<sup>148</sup> The growing strength of this alliance became evident at the 1992 session of the UNCHR where most of the developing countries' members supported China's no-action motion.<sup>149</sup> China was able to further promote these views during the Asian preparatory meeting of the UN World Conference on Human Rights in Bangkok in early 1993, and at the Conference itself in Vienna in June. The outcome of the Bangkok meeting was a declaration that encompassed at least some of China's priorities, including the importance of respecting state sovereignty, the right to development and the indivisibility of human rights. In addition, the paragraph of the

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<sup>145</sup> Gu Chunde, "Theoretical Research on Human Rights," *Beijing Review* 39, no. 10 (1996), p. 21.

<sup>146</sup> Yu Tian, "CSHRS Actively Promotes Human Rights Research and Exchange," *Beijing Review* October 19-25 (1998).

<sup>147</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 151. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 45.

<sup>148</sup> *Beijing Review*, "Asia's Major Human Rights Concerns: Excerpts from a Speech by Chinese Ambassador Jin Yongjian at the Asian Regional Preparatory Meeting for the World Conference on Human Rights in Bangkok, March 30, 1993," *Beijing Review* April 19-25 1993, pp. 10-11. China continued to promote this alliance of developing countries throughout the time period covered in this chapter. For example, see *Beijing Review*, "A North-South Struggle over Human Rights," *Beijing Review*, April 14-20 1997, pp. 7-10.

<sup>149</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 64.

Bangkok declaration that is most often referred to reflected China's view that the human rights of a country should only be considered in light of that country's historical and cultural background.<sup>150</sup>

At the Vienna Conference in June, Chinese officials continued to stress the importance of subsistence and development rights, the importance of the state sovereignty principle, that a country's specific culture, history, political and economic conditions were linked to human rights, and that the UN should emphasise the abuses that had resulted from colonialism. The final declaration of the Conference instead called for the promotion and protection of all human rights by all states and that a lack of development could not justify a lack of respect for other rights. China officially agreed with this declaration, probably due to the negative media coverage it received for its lobbying to get NGOs excluded from participating fully in the proceedings, and preventing the Dalai Lama from participating in the opening ceremony.<sup>151</sup> China even 'went on record in support of giving "equal emphasis" to civil, political, economic, social, and cultural rights and the right to development.'<sup>152</sup>

At the same time that the Chinese government was engaging in these international discussions on human rights and taking opportunities to promote its own views, there were reports of the release of some political and religious prisoners that appeared to be in response to external pressures. A number of prominent political prisoners were released in 1993, including several in February who had been detained for their involvement in the 1989 demonstrations or for their religious activities, and three

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<sup>150</sup> The paragraph states that 'while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds'. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 156-57. It should be noted, however, that Asian human rights NGOs did not agree with the Bangkok declaration and instead endorsed the universality of human rights. Yash Ghai, "Asian Perspectives on Human Rights," in *Human Rights and International Relations in the Asia Pacific*, ed. James T.H. Tang (London: Pinter, 1995) p. 63.

<sup>151</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 119.

<sup>152</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 169-70. See also Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 182.



political prisoners who had been detained for over twelve years.<sup>153</sup> Their releases were just one month prior to the annual UNCHR session. Just prior to the IOC's vote in September 1993 on which city would host the 2000 Olympics, Wei Jingsheng, a prominent political prisoner since the end of the Democracy Movement in 1979, was released.<sup>154</sup> Further political and religious prisoners were released in 1994, including two Tibetan human rights monitors in January, only two months prior to the UNCHR session, and two who had been involved in the 1989 demonstrations in April and May.<sup>155</sup> The latter releases were leading up to the annual MFN renewal decision. In the aftermath of the delinkage of China's MFN status renewal and human rights in 1994, and the IOC's decision on the site for the 2000 Olympics in 1993, fewer releases of political prisoners were observed.<sup>156</sup> In 1996 there were reports of a further number of political prisoners being released, however, this was due to their having served their full sentences.<sup>157</sup>

From the early to mid 1990s the Chinese government also responded to criticisms of its human rights abuses in the various UN human rights forums. Responses included a defense of China's human rights record and an attack on the activities of some of these human rights bodies. For example, the Chinese response to the UN Working Group on Arbitrary Detention's reports in 1993 and 1994 that concluded China's re-education through labour system amounted to arbitrary detention, was to label the Working Group's conclusion as political and that the Group had no right to declare a state's legislation invalid.<sup>158</sup> One exception to this type of response was the Chinese government's response to the report on the visit by the Special Rapporteur on Religious Intolerance. This report acknowledged the progress of the Chinese in the area of religious freedom as well as highlighted areas needing attention. The report, described as being 'a careful blend of tact', elicited a welcoming response from the

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<sup>153</sup> Amnesty International, *Amnesty International Report 1994*, p. 99.

<sup>154</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1993*. However, Wei Jingsheng was detained again the following year. Human Rights Watch, *China and Tibet: Human Rights Developments 1995*.

<sup>155</sup> Amnesty International, *Amnesty International Report 1995*, p. 100.

<sup>156</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 71.

<sup>157</sup> Amnesty International, *Amnesty International Report 1997*, p. 120.

Chinese despite the inclusion of its concerns.<sup>159</sup> The Chinese clearly preferred the tactful and less confrontational approach.

Other more negative responses included Chinese officials' attempts to limit the ability of other UN bodies to target China's human rights record. In 1994 China opposed the resolution allowing the Special Rapporteur on Torture to make recommendations that particular states should be advised on how to improve their human rights practices, and lobbied to reduce the number of Special Rapporteurs and make their numbers focused on civil and political rights more equitable with those focused on economic, social and cultural rights. At the 1995 UNCHR session, the Chinese delegate called for reforms to the UN human rights bodies, including the end of impartial decision making by some of the Special Rapporteurs and Working Groups that the delegate said was reflected by the lack of consideration given to replies of states to these bodies and domestic legal judgements. The Chinese delegate also called for the end of resolutions targeting specific countries in the UNCHR. At the 1996 UNCHR session Chinese officials again criticised the UN human rights bodies in attempts to bring about changes to their activities. The bodies were accused of not paying enough attention to economic and social rights and being in need of a general overhaul in order to improve their effectiveness. In particular, the UNCHR was accused of not having enough developing countries as members.<sup>160</sup> These calls did not stop the UN Special Rapporteurs and Working Groups from continuing to focus on China in the following years, but did result in curbs in how at least the Working Group on Arbitrary Detention carried out its work.<sup>161</sup>

The Chinese government continued to promote its own understandings of international human rights into the mid 1990s with the release of further White Papers on human rights and by hosting the UN's Fourth World Conference on Women in Beijing in

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<sup>158</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 181-83.

<sup>159</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 113.

<sup>160</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 178-79, 181-83, 196-97.

<sup>161</sup> See the *UN Responses* section for discussion.

1995. Leading up to the World Conference on Women, the Chinese government released a White Paper on women's rights, *The Situation of Chinese Women*. This White Paper described the benefits to Chinese women since the founding of the PRC in 1949 including that they now enjoyed equal rights guaranteed by law with men and that women had become important contributors to society. Once again, the explanation of China being a developing country was given to explain why women were yet to fully realise their rights and that further development of China's economy would assist in their realisation.<sup>162</sup>

The Fourth World Conference on Women in 1995 was a collection of thousands of women from across the world, including 30,000 from NGOs, and some of the issues raised would have been undoubtedly uncomfortable for Chinese officials such as women in Tibet, family planning and female infanticide. The Chinese government went to considerable efforts to hamper the participation of NGOs, even denying visas to some individuals whose views were contrary to their views. NGO workshops were monitored and disrupted by Chinese security officials.<sup>163</sup> Chinese officials also detained some Chinese political and human rights activists during the Conference.<sup>164</sup> However, the hosting of this conference further exposed at least some Chinese citizens to outside opinions on human rights and also attracted further international media attention to human rights in China.<sup>165</sup> The Conference was followed by a White Paper on family planning issues in an attempt to defend China's human rights record in this area.<sup>166</sup>

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<sup>162</sup> Information Office of the State Council of the People's Republic of China, "The Situation of Chinese Women," *Beijing Review* 37, no. 23 (1994), pp. 9-21.

<sup>163</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1995*.

<sup>164</sup> Amnesty International, *Amnesty International Report 1996*, p. 118.

<sup>165</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 170. In particular there was much international media coverage over Chinese officials changing the venue of the NGO forum so that NGO participants were a good distance away from the participants of the core forum. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 178-79.

<sup>166</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 152. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 18.

China also produced a follow up to the 1991 White Paper on Human Rights, *The Progress of Human Rights in China*, in 1995. This Paper again drew a link between a country's historical stage and level of development and its respect for human rights, and that therefore it would be a long term project for China to bring about respect for the human rights of all its citizens. The Paper noted that prioritising the rights to subsistence and development were proving to be correct given China's conditions, and that further efforts were need to overcome poverty. It was also explained that a significant reason for China achieving the rate of economic development it had was because of the emphasis that the government had also placed on the realisation of civil and political rights. New laws effecting human rights were described as well as details of Chinese books, theses, conferences and research devoted to the topic of human rights. The Paper also stated that the non-confrontational dialogue approach was the most constructive way of proceeding with international human rights discussions.<sup>167</sup> As with the 1991 White Paper, the 1995 Paper outlined China's involvement in the international human rights regime. The 1995 Paper provided the Chinese government with another opportunity to criticise Western countries' criticisms of developing countries' human rights practices, describing them as attempts to change their political systems and ideologies. In particular, the US actions against China at the UNCHR were once again vehemently criticised as attempts to hinder China's development.<sup>168</sup> Despite this discussion, the 1995 Paper did not place as much emphasis on the state sovereignty argument to rebut external interest in its human rights record as the 1991 Paper did. The 1995 White Paper also did not focus on the abuses of imperialist regimes in China to the extent that the 1991 paper had done.<sup>169</sup> This indicates that international attention to China's human rights record, and China's engagement with

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<sup>167</sup> These themes were reinforced in a 1995 speech in New York by President Jiang Zemin where he placed priority on the rights to subsistence and development, stated that acts endangering national security were crimes and so their punishment were not human rights violations, dialogue and cooperation were the best ways to raise and discuss human rights issues, and non-interference in domestic affairs needed to be respected. Beijing Review, "Jiang Reviews China-US Relations: Excerpts of Speech by President Jiang Zemin in New York on October 23 1995," *Beijing Review*, November 20-26 1995, p. 9.

<sup>168</sup> Information Office of the State Council of the People's Republic of China, "The Progress of Human Rights in China," *Beijing Review* Special Issue January (1996), pp. 4-29.

<sup>169</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 183-87. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 18.

the substance of its critics' accusations, had resulted in the Chinese government beginning to move beyond its arguments that human rights were largely internal matters and that the past abuses of colonial powers were relevant to discussions on current human rights practices.

In 1996 China hosted an Interparliamentary Union (IPU) meeting and actively participated in the drafting of an IPU human rights resolution, agreeing that it should promote the universality of human rights.<sup>170</sup> In addition, a further White Paper was published in 1996, *The Situation of Children in China*, in response to criticisms of the treatment of children in China's orphanages. The Paper acknowledged the difficulties China faced as a developing country in fully realising the rights of children, as well as detailed how the Chinese government had so far been able to protect the rights of children.<sup>171</sup>

Accompanying the extensive efforts the Chinese government had put into promoting its views on international human rights and engaging with its critics' arguments, from 1994 to 1996 various laws were passed in attempts to make Chinese legislation reflect at least some of the content of international human rights treaties and conventions and Western concepts of judicial practice. The establishment of these laws was clearly a response to international pressures over China's human rights practices.<sup>172</sup> For example, the Prison Law of 1994 included some emphasis on improving the respect for rights of detainees. In 1995 the Law on Judges, Law on Procurators and the People's Police Law all focused on increasing the accountability of judges, procurators and police. At the beginning of 1996, the Lawyers' Law was passed to separate

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<sup>170</sup> US Department of State, *China Country Report on Human Rights Practices for 1997*.

<sup>171</sup> Information Office of the State Council of the People's Republic of China, "The Situation of Children in China," *Beijing Review* 39, no. 17 (1996), pp. 20-30. Criticisms of China's orphanages included a report by Human Rights Watch/Asia in January 1996 and two Channel Four documentaries aired in Britain in 1996. Both of these forms of criticism were specifically mentioned and refuted in the White Paper. See Human Rights Watch/Asia, *Death by Default: A Policy of Fatal Neglect in China's State Orphanages* (January 1996 [cited 30 October 2003]); available from <http://www.hrw.org/summaries/s.china961.html>.

<sup>172</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 214-15.

lawyers from the state so theoretically lawyers could represent their clients and not the state.<sup>173</sup>

Other legislative changes in 1996 included attempts to minimise abuses of the right to be free from arbitrary arrest and detention in China through the revision of the Criminal Procedure Law and the establishment of an Administrative Punishment Law. These pieces of legislation theoretically were to improve the rights of detainees in areas such as their access to legal assistance and to restrict the ability of police to secure lengthy sentences of administrative detention.<sup>174</sup> However, other legislative revisions at this time increased the amount of time someone could be detained before being technically arrested and the Criminal Procedure Law contained no provision for specifying the presumption of innocence. In addition, further legislation was enacted to criminalise a wide spectrum of behaviours including some that had until that point been considered disciplinary matters. There was also a significant obstacle to establishing the rule of law in China. The multitude of legal texts that were not codified to allow easy identification of law, and the difficulties in changing the attitudes and behaviours of judges, lawyers and the police, led to new laws not being appropriately applied in reality.<sup>175</sup> Despite this, other positive developments in 1996 included that a number of universities had legal aid clinics that could provide some monitoring of human rights abuses and support to those abused, although there were significant limits on their scope of action and members of these clinics risked arrest if they spoke publicly on behalf of particular political detainees.<sup>176</sup> Another positive development in 1996 was that there were a number of cases where damages were

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<sup>173</sup> Ibid. p. 204.

<sup>174</sup> Human Rights Watch, *China: Human Rights Developments 1996*.

Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 204.

<sup>175</sup> Ibid. pp. 205, 215-17. This continued to be an obstacle as at the beginning of 2004. Amnesty International, *Amnesty International Report 2003* (2003 [cited 16 January 2003]); available from <http://web.amnesty.org/report2003/Chn-summary-eng>.

Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet* (2004 [cited 29 March 2004]); available from [http://hrw.org/english/docs/2003/12/31/china7001\\_txt.htm](http://hrw.org/english/docs/2003/12/31/china7001_txt.htm).

<sup>176</sup> Human Rights Watch, *China: Human Rights Developments 1996*.

awarded for illegal detention under the 1995 State Compensation Law, despite most citizens not being aware of this legislation.<sup>177</sup>

Despite these legal developments reflecting some acceptance of the priorities of its critics, the Chinese government continued to promote its own views on human rights and argue with its critics throughout 1997. Coinciding with the 1997 UNCHR session, China released another two White Papers on human rights, *Progress in China's Human Rights Cause in 1996* and *Freedom of Religious Belief in China*. The former Paper continued to emphasise the importance of the rights to subsistence and development, and that China's historical conditions continued to restrict progress on its human rights practices. The Paper also claimed that China's citizens had had their democratic rights further guaranteed due to factors such as the increased legal protection of these rights and further development of grass-roots democratic elections. Improvements in criminal legislation were highlighted, as well as the crackdown on crime launched in 1996 in order to further protect citizens' safety and their property. Some acknowledgement was also made that efforts had been increased to punish public security and judiciary officials who had abused the rights of suspects, defendants and criminals, though the numbers of abuses cited were low.<sup>178</sup>

The 1997 White Paper on religious belief was produced in response to criticisms of the repressive measures that China was using against those who participated in non-official religious activities.<sup>179</sup> The Paper claimed there was respect for the freedom of religious belief in China, citing the diverse range of religions in China and their great numbers of followers as evidence, in addition to the protection of this freedom under Chinese law. However, once again, it was pointed out that it was punishable by law

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<sup>177</sup> This legislation allows for damages to be awarded to citizens who were found to have been illegally detained. US Department of State, *China Country Report on Human Rights Practices for 1996*.

<sup>178</sup> Information Office of the State Council of the People's Republic of China, "Progress in China's Human Rights Cause in 1996," *Beijing Review* 40, no. 16 (1997), pp. 11-19

<sup>179</sup> Amnesty International, "Religious Repression in China," (London: Amnesty International, ASA 17/069/1996, 1996).

for religion to be used as an excuse to disrupt public order and the activities of groups who had done so were discussed.<sup>180</sup>

Other more positive developments in 1997 included the releases of a number of political prisoners and various other tactical concessions. There were increasing numbers of press reports documenting government-sanctioned abuses and the Chinese government allowed delegations from Norway, Switzerland and Germany to visit Tibet, including a visit to a prison.<sup>181</sup> Some political prisoners were released, though most because they had completed their sentences. About twelve political prisoners were reported to have been released on parole or had their sentences reduced, including Wei Jingsheng who was released on medical parole and exiled to the US.<sup>182</sup> Wei Jingsheng's release very soon after the US-China summit in November 1997 was clearly a concession to the US in acknowledgement of the prestige that the summit had awarded China. Other concessions to its critics at this time included China's signing of the ICESCR, an invitation to a number of US religious leaders to visit China, its resumed negotiations with the ICRC over access to Chinese prisons,<sup>183</sup> and the resumption of discussions with a former foreign businessman in China who had become a human rights activist on behalf of political prisoners in China.<sup>184</sup>

Another positive development in 1997 was the successful appeal of four political prisoners in Jilin province who had been arrested for their involvement in the 1989 Tiananmen Square demonstrations. This was the first occasion where a conviction for counterrevolutionary crimes had been overturned, and the prisoners were

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<sup>180</sup> Information Office of the State Council of the People's Republic of China, "Freedom of Religious Belief in China," *Beijing Review* 40, no. 44 (1997), pp. 13-22.

<sup>181</sup> US Department of State, *China Country Report on Human Rights Practices for 1997*.

<sup>182</sup> However, there were still reports of the arrest and detention of others in 1997 who were considered to be challenges to the government's authority, and thousands of others remained in detention. Reports of the harassment of those released were also common. Amnesty International, *Amnesty International Report 1998: China*.

US Department of State, *China Country Report on Human Rights Practices for 1997*.

<sup>183</sup> These talks had been suspended in 1995. Despite the resumption of negotiations with the ICRC, the Chinese government continued to state that it would not accept the ICRC's conditions regarding prison access. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 56. US Department of State, *China Country Report on Human Rights Practices for 1996*.



subsequently released.<sup>185</sup> In addition, some efforts to combat the use of torture were reportedly planned in 1997, for example, inspectors were to investigate the use of torture and ill-treatment in prisons and other places of detention.<sup>186</sup>

Thus by the latter half of 1997 the Chinese government had devoted much time and energy in promoting its own understandings and priorities of international human rights norms and engaging with its critics' arguments. It had released nine White Papers on human rights, vigorously lobbied against the annual UNCHR resolutions critical of its human rights record, criticised the UN human rights bodies and Western government and NGO critics, and built an alliance of developing countries over human rights. The Chinese government had also started internal discussions on human rights and set up its own "NGO", the CSHRS, to promote official government policy on human rights. In addition, the Chinese government had made the concessions of releasing various political and religious prisoners in attempts to prevent UNCHR resolutions on its human rights record and US trade sanctions, and to gain international rewards such as being chosen as an Olympic site. Through these activities, China was showing that it was adopting some behaviours consistent with international human rights norms. But it was also making clear attempts to modify the priorities of international human rights norms by promoting the rights to subsistence and development, and that a country's historical and economic background would influence the degree to which human rights were realised. In addition, China had attempted to persuade the international community that human rights were an internal matter for a state and that former colonial states should not criticise the human rights records of developing countries on the grounds that they had perpetrated abuses in the past. Perhaps in recognition that some level of international attention on its human rights record would remain, by the mid 1990s the Chinese government was arguing these two points to a decreasing extent. However, 'by mid-1997, if China itself had

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<sup>184</sup> US Department of State, *China Country Report on Human Rights Practices for 1997*.

<sup>185</sup> Ibid.

<sup>186</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

given some ground, it was also having some considerable success in shifting the discursive and behavioural practices of its major governmental interlocutors.’<sup>187</sup>

The Chinese government had had particular success in its attempts to modify some of the UN human rights mechanisms and the methods democratic states were willing to use to criticise China’s human rights record. Some limitations had been placed on the operations of the UN Working Group on Arbitrary Detention and the UNCHR’s Sub-Commission due to the lobbying efforts of Chinese officials. In addition, most democratic states by 1997 were promoting bilateral dialogue as their preferred human rights policy approach regarding China, directly reflecting China’s continued preference for this approach since the early 1990s. The bilateral dialogue approach was characterised by private talks between government officials that were supposed to be an equal exchange of views on human rights, based on cooperation and not confrontation.<sup>188</sup> China rewarded those Western European states that had not supported a resolution on China at the 1997 UNCHR session with the resumption of the EU-China human rights dialogue. As discussed in *The Responses of Democratic States* section of this chapter, in 1997 China began or resumed human rights dialogues with governments which had not supported the UNCHR resolution, including Australia, Norway, Brazil, Japan and Canada.<sup>189</sup> In addition, China began a human rights dialogue with the UK in 1997, despite the latter’s support for the UNCHR resolution on China that year. This perhaps was in response to the efforts of the newly elected Labor government to improve the UK’s relations with China after the Hong Kong handover.<sup>190</sup> A new era of engagement with China regarding human rights was

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<sup>187</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 209.

<sup>188</sup> Ibid. p. 192.

<sup>189</sup> US Department of State, *China Country Report on Human Rights Practices for 1997*. In contrast, China accused those who had supported the resolution of trying to block China’s development, in particular Denmark and the Netherlands. The Chinese government also cancelled a visit from the Dutch economic minister, visits by the Chinese Vice Premier to the Netherlands, Austria, Ireland and Luxembourg, and some Dutch trade contracts. The Danish and Dutch governments quickly responded by sending officials to Beijing to restore relations. Beijing Review, "Anti-China Attempt Foiled in Geneva," p. 5. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 82.

<sup>190</sup> Prime Minister Blair met with the Chinese Ambassador soon after his meeting with the US Ambassador. Ibid. p. 81.

beginning. However, by 1997 it was also clear that the Chinese government was continuing to carry out abuses of the two core rights of many of its citizens.

### The Chinese Government's Continuing Human Rights Abuses

Despite the tactical concessions made by the Chinese government, and what appeared to be genuine attempts to minimise some abuses, according to the reports of AI, HRW, and the US Department of State on China many abuses of the two core human rights continued within China over the 1991 to 1997 period. At the end of this period there were no signs that these abuses were abating.<sup>191</sup>

In 1991 participants in the 1989 demonstrations continued to be sentenced to imprisonment. In 1992 hundreds of participants remained in prison, and by 1997 there were still reports that scores of these participants continued to be detained.<sup>192</sup> In 1991 there were reported to be approximately 200 Tibetans in detention either without charge or for calling for Tibetan independence, and more were arrested from 1992 to 1997. Those suspected of calling for independence in other ethnic minority regions such as Xinjiang were arrested or continued to be detained throughout 1991 to 1997. Many political and human rights activists and religious leaders and followers remained in detention, were imprisoned or “disappeared” from 1991 to 1997, and hundreds of thousands more were in administrative detention. Government repression also targeted Chinese citizens involved in non-state sanctioned labour unions, strikes and rallies. Towards the end of the 1991-1997 period it was estimated that thousands of Chinese were imprisoned for “counterrevolutionary crimes” or “crimes against the state”.<sup>193</sup> Approximately 50,000 Chinese were reported to be sentenced to re-

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<sup>191</sup> Indeed, international human rights NGOs observed an increase in incidences of these abuses after 1997. See Chapter Six for further discussion.

<sup>192</sup> Amnesty International, *Amnesty International Report 1992*. Amnesty International, *Amnesty International Report 1996*. Amnesty International, *Amnesty International Report 1997*. Amnesty International, *Amnesty International Report 1998: China*. Human Rights Watch, *China and Tibet: Human Rights Developments 1991*. Human Rights Watch, *China: Human Rights Developments 1992*. Human Rights Watch, *China: Human Rights Developments 1996*.

<sup>193</sup> US Department of State, *China Country Report on Human Rights Practices for 1996*. The Criminal Law was revised in 1997 that meant that the offences previously known as “counterrevolutionary” were replaced with “crimes of endangering state security”. These revisions appeared to be only cosmetic

education through labour in 1991 and more were sentenced from 1992 to 1997.<sup>194</sup> Trials continued to deny the accused the opportunity to provide an adequate defense or right of appeal throughout 1991 to 1997, and the use of torture and ill-treatment in prisons and to extract confessions continued to be reported. The escalated incidence in the use of the death penalty in 1990 also continued throughout the 1991 to 1997 period.<sup>195</sup>

Certain years were highlighted by the NGO and US Department of State reports as being particularly repressive. AI and HRW reported that 1994 was a year when political repression intensified with a

renewed crack-down on prominent dissenters and further repressive legislation...adopted. Two new laws came into force in January which banned certain religious activities. In July the government banned specific activities "endangering state security", increasing restrictions on freedom of expression and association.<sup>196</sup>

According to the US Department of State report on China, in 1996 the Chinese government increased its efforts to repress any protests or criticisms of it to such a

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improvements as the latter category is as much open to interpretation as the former. See Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

<sup>194</sup> Under administrative detention a person can be held indefinitely without charge, trial or judicial review. Under re-education through labour, a person can be detained for up to four years in a labour camp without charge or trial. See Amnesty International, *Amnesty International Report 1992*, p. 89.

<sup>195</sup> Ibid. Amnesty International, *Amnesty International Report 1993*. Amnesty International, *Amnesty International Report 1994*. Amnesty International, *Amnesty International Report 1995*. Amnesty International, *Amnesty International Report 1996*. Amnesty International, *Amnesty International Report 1997*. Amnesty International, *Amnesty International Report 1998: China*. Human Rights Watch, *China and Tibet: Human Rights Developments 1991*. Human Rights Watch, *China and Tibet: Human Rights Developments 1993*. Human Rights Watch, *China and Tibet: Human Rights Developments 1994*. Human Rights Watch, *China and Tibet: Human Rights Developments 1995*. Human Rights Watch, *China: Human Rights Developments 1992*. Human Rights Watch, *China: Human Rights Developments 1996*. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. US Department of State, *China Country Report on Human Rights Practices for 1996*. US Department of State, *China Country Report on Human Rights Practices for 1997*. See also the summary or reported human rights abuses in China as at 1997 in Nathan, "China: Getting Human Rights Right," pp. 138-140.

<sup>196</sup> Amnesty International, *Amnesty International Report 1995*, p. 98. Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

degree that by the end of the year '[n]o dissidents were known to be active'.<sup>197</sup> According to HRW, this crackdown was due at least in part to the Clinton administration's unconditional renewal of China's MFN status in May 1994.<sup>198</sup>

It is clear from 1991 to 1997 the Chinese government continued to deliberately abuse the two core rights of a considerable number of its citizens. Many reports were documented of Chinese political and religious demonstrators and activists being detained, "disappeared" and/or tortured. Some were also given the death penalty.<sup>199</sup> These abuses severely hampered the ability of any domestic opposition groups to establish and sustain their activities in this time period.

### **Domestic Opposition**

In the aftermath of the 1989 crackdown some pro-democracy and human rights activists continued to organise expressions of dissent. Given the ongoing difficulties for Chinese activists to develop and maintain direct links with other activists across China and international human rights NGOs, their efforts remained largely small-scale. The efforts of some of these activists were monitored by AI and HRW and when the Chinese government reacted with repressive measures against some of these activists, the international NGOs internationally publicised these abuses. Examples of a group of such activists included the formation of an organisation, the 89 Alliance, in Tianjin in September 1989 in an effort to keep the demonstrations movement going. Eight members of the organisation were detained in 1991 and though all were later released, the leader of the Alliance was sentenced to eighteen months imprisonment.<sup>200</sup> A small group of former graduates and graduate students formed the Chinese

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<sup>197</sup> US Department of State, *China Country Report on Human Rights Practices for 1996*.

<sup>198</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

<sup>199</sup> Technically the death penalty was given after a trial, and thus the Chinese government would argue that these were not extrajudicial executions. However, the unfairness of such trials to the accused has already been highlighted and therefore it is very much open to interpretation whether the killing of Chinese citizens via the death penalty is extrajudicial execution or not. The Chinese government would not be alone in arguing that it is not. Other governments that have the death penalty, such as the US, would also argue this.

Revolutionary Democratic Front in 1990 and were subsequently sentenced to imprisonment in 1991 for establishing such an organisation and a political journal. A number of intellectuals were also imprisoned in 1991 for setting up the Study Group on Human Rights Issues in China, which had planned to establish a regular newsletter on human rights. Other members of the group were harassed by the authorities in 1993 and most of the leaders of the group were detained by 1994.<sup>201</sup> In addition, in 1991 members of several unofficial ethnic groups formed in Inner Mongolia with a focus on human rights were subject to government repression. Other examples of domestic groups opposed to the Chinese government that were established in the first two years after the crackdown included the Socialist Democratic Party of China, established in Gansu Province to promote democracy and the freedom of political prisoners, the China Progress Alliance, also opposed to the one party political system, and the Free Labour Union of China, set up to promote the rights of workers. In 1992 and 1994 there were reports that members of these groups had also been arrested.<sup>202</sup>

In the aftermath of the killings in Beijing in June 1989, the genesis of another group of activists began to take shape – the Tiananmen Mothers. This group is comprised of the families of the victims of the violence and began quietly as a network of mutual support. But in 1991, after Premier Li Peng’s announcement that the names of the June 1989 victims could not be released out of respect for their families, this network began to speak to foreign media and document the details of victims. The international NGO HRIC became particularly supportive of the Tiananmen Mothers and campaigned internationally on their behalf. As a result of this activity, one of the network’s leaders and her husband, Ding Zilin and Jiang Peikun, were detained for several days in 1994. Periods of detention have continued for the couple for their involvement in the group.<sup>203</sup>

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<sup>200</sup> Human Rights Watch, *China and Tibet: Human Rights Developments 1991*.

<sup>201</sup> Ibid. Human Rights Watch, *China and Tibet: Human Rights Developments 1993*. Human Rights Watch, *China and Tibet: Human Rights Developments 1994*.

<sup>202</sup> Amnesty International, *Amnesty International Report 1993*, p. 94. Human Rights Watch, *China: Human Rights Developments 1992*. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 20.

<sup>203</sup> Human Rights In China, *Mother Courage* (5 February 2004 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/news\\_item.adp?news\\_id=1390](http://iso.hrichina.org/iso/news_item.adp?news_id=1390).

In 1993 the reported founder of the Republican Party was imprisoned for establishing a 'counter-revolutionary' political organisation and twelve other members were also to be tried. The same year the Association for Human Rights was set up in Shanghai and was subsequently not recognised by the government as an official organisation. The following year at least six members of the Association were detained.<sup>204</sup> In 1994 a number of human rights activists in China were also imprisoned for reportedly trying to set up an independent labour rights organisation, the League for the Protection of the Rights of the Working People.<sup>205</sup>

Further reports of Chinese citizens being detained for presenting petitions to the Chinese government calling for political reforms or political prisoners to be released were made by international human rights NGOs in 1996.<sup>206</sup> The same year at least ten intellectuals from the Southern Mongolian Democratic Alliance, another organisation that had emerged in the wake of the Tiananmen Square massacre, were arrested.<sup>207</sup> In January 1997 the creation of non-government organisations became even more difficult with a moratorium banning any new such bodies being decreed by the Chinese government.<sup>208</sup>

In 1997, eight years after the Tiananmen crackdown, attempts to highlight the events of the demonstrations and massacre continued with a state prosecutor from Anhui province petitioning the NPC. The petition asked for an official re-assessment of the 1989 massacre, the release of political prisoners and permission for exiled activists to come back to China. The prosecutor was soon detained for his actions. Various other petitions calling for greater freedoms of expression and the media, the existence of more than one political party, and Zhao Ziyang's release from house arrest, were made

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<sup>204</sup> Amnesty International, *Amnesty International Report 1994*, p. 100.

<sup>205</sup> Amnesty International, *Amnesty International Report 1995*, p. 98.

<sup>206</sup> Amnesty International, *Amnesty International Report 1997*. US Department of State, *China Country Report on Human Rights Practices for 1996*.

<sup>207</sup> Human Rights Watch, *China: Human Rights Developments 1996*.

<sup>208</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

at the Fifteenth Congress of the CCP in 1997. These made no impact on the outcomes of the Congress.<sup>209</sup>

It is clear that there were fewer reports by the mid 1990s of unofficial pro-democracy or human rights organisations being set up in China, understandably given the repressive responses to the 1989 demonstrations and protests in the early to mid 1990s had received.<sup>210</sup> This was perhaps also a reflection that, according to Ming Wan, from the mid 1990s the majority of the Chinese were reported to have expressed a preference for 'social order and stability to freedom'.<sup>211</sup> The increase in anti-Western sentiment within China that became obvious four years after the Tiananmen Square massacre, fuelled by the Chinese government's nationalist discourse, would also have dampened Chinese support for pro-democracy and human rights groups. Around this time Chinese intellectuals, many of whom supported the 1989 demonstrations, began to question the intentions of US human rights policy regarding China and 'came to believe that the West was seeking strategic and economic advantages for itself without real concern for Chinese freedom.'<sup>212</sup> This would have further limited support for Chinese organisations expressing themselves in terms of what were believed to be Western concepts of democracy and human rights. Problems within the community of dissidents also contributed to the pro-democracy and human rights movement becoming more widespread. Many dissidents had difficulties joining with peasants because of their attitudes that peasants were not capable of understanding democracy and that the more militant workers would not be able to work within a democratic

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<sup>209</sup> Human Rights Watch/Asia, *Report on China 1989* (1989 [cited 16 June 2003]); available from <http://www.hrw.org/reports/1989/WR89/China.htm#TopOfPage>.

<sup>210</sup> Indeed, by the end of 1996 the US Department of State asserted that '[n]o dissidents were known to be active.' US Department of State, *China Country Report on Human Rights Practices for 1996*.

<sup>211</sup> Ming Wan concluded this based on his own experiences of interviewing Chinese citizens, participating in public seminars and internet discussions, and a 1995 survey in Beijing in which the majority of interviewees stated they would rather live in an orderly society than a society which may have more freedom but be more susceptible to disruption. His conclusions from later in the 1990s were partially based on a 1997 Gallop poll that indicated Chinese citizens were becoming more individualistic and concerned about working hard and prospering than serving society. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 27-29.

<sup>212</sup> *Ibid.* p. 30.



system. Infighting amongst some dissidents also meant that it was difficult for a united front against the Chinese government to be formed.<sup>213</sup>

What did begin to attract more widespread support within China were attempts to protest on behalf of the treatment of workers and those who had lost their jobs with the closure of state-owned organisations. As discussed in the last chapter, after the Tiananmen Square massacre and the repression that followed, the non-official workers' organisations went underground. Subsequent attempts to establish workers' organisations were also met with repressive government responses. In May 1992 a new non-official workers' organisation was established, the Free Labor Union of China, and sixteen of its members were subsequently arrested and sentenced to imprisonment in 1994 for terms ranging from seven to twenty years. In 1993 and 1994 the Chinese government continued in their attempts to detain members of this union and other non-official workers' organisations. In particular, three organisers of the League for the Protection of the Rights of the Working People, set up in 1994, were detained after the organisation attracted hundreds of supporters throughout China. Despite these repressive responses, in 1995 there were approximately 1,870 strikes across China.<sup>214</sup> In 1997 protests in response to large-scale lay-offs at state-owned organisations involved thousands of people in various cities. However, attempts at organising independent unions continued to be thwarted by the government, and a number of delegates of one such union from Henan province disappeared when they went to Beijing to meet with the authorities to discuss their layoffs.<sup>215</sup> Despite this continued repression, support for non-official organisations protesting on behalf of workers' rights was clearly growing, indicating that this could be a potential source of domestic opposition in the future.

Another potential source of domestic opposition to the Chinese government's human rights practices may be found in the increasing ability of some Chinese citizens to gain access to information independent of their government. From 1996 increased numbers

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<sup>213</sup> Ibid. p. 31.

<sup>214</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 133, 142.

<sup>215</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

of Chinese gained access to satellite television, shortwave radios and the internet. The Chinese government tried to restrict access to particular websites and regulate sales of satellite dishes, but by 1997 these efforts had proven to be limited in their effectiveness and the numbers of Chinese accessing these sources of information continued to increase.<sup>216</sup>

The competitive elections held at the grass-roots level may be another potential source of domestic opposition to the Chinese government. These elections have been developing at the village level since the early 1980s.<sup>217</sup> Under the 1987 Organic Law of the Village Committees, the elections continued to become more competitive throughout the 1990s, with Chinese and foreign estimates putting the level of villages participating in such elections by 1997 at over ninety percent.<sup>218</sup> Whether these rural election experiences, the increasing access of Chinese citizens to information independent of their government, and the growth of workers rights groups will lead to significant sources of domestic opposition will be further discussed in Chapter Six.

### **Socialisation Processes, the Chinese Government and Influencing the International Human Rights Network – 1991-1997**

According to the spiral model, both the socialisation processes of instrumental adaptation and argumentative discourses can be expected in the tactical concessions phase, with the latter becoming increasingly dominant. Throughout the 1991 to 1997 period there was indeed evidence that both processes were in operation in the case of China. Concessions were made by the Chinese government in attempts to silence its critics throughout the period, some clearly reflecting that the government was not

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<sup>216</sup> US Department of State, *China Country Report on Human Rights Practices for 1996*. US Department of State, *China Country Report on Human Rights Practices for 1997*. However, from 1998 the Chinese government began to repress Chinese internet users found to be disseminating information on human rights. See Chapter Six for further discussion on this.

<sup>217</sup> Jiang Wandu, "Grassroots Democracy Taking Root," *Beijing Review* 39, no. 11 (1996), pp. 11-14.

<sup>218</sup> However, these elections do not threaten CCP rule – most candidates are Party members and elected officials have relatively little power compared with the government. US Department of State, *China Country Report on Human Rights Practices for 1997*.

intent on making substantial structural changes that would prevent further abuses, which is indicative of instrumental adaptation. Examples include the releases of small numbers of political and religious prisoners timed to coincide with the 1993 IOC Olympics site decision and the 1994 US MFN renewal decision without substantial legislative changes in conjunction with strong central government backing to ensure regional practices reflected these changes.<sup>219</sup> Further examples of China's engagement in instrumental adaptation were the signing of the ICESCR and resumption of negotiations with the ICRC in 1997, the Chinese government's participation in discussions with AI officials in 1996 and 1997, and a slight improvement in the government's tolerance of freedom of expression in 1997. Most of these particular concessions were made in the aftermath of some of the democratic states' decisions to cease their support for the UNCHR resolution on China in 1997, and around the time of the first Sino-US state visit. The announcement that the Chinese government would resume negotiations with the ICRC particularly highlights the point that China was experiencing the instrumental adaptation process since the government continued to state that it would not accept the ICRC's conditions regarding prison access. Thus the Chinese government had clearly made a concession without being persuaded that it was important for the ICRC to assist it to improve the human rights practices within its prisons. That reports continued to be made of abuses of the two core rights throughout 1991 to 1997 in China also indicates that the Chinese government was not serious about making the structural changes necessary to prevent these abuses at this stage.

An engagement in argumentative discourses was also evident in the case of China from the beginning of the tactical concessions phase. The release of nine White Papers on human rights from 1991 to 1997 indicated a deepening of China's engagement with its international critics over the substance of their criticisms and

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<sup>219</sup> The revision of the criminal procedure law and the establishment of the administrative punishment law in 1996 were positive developments for the protection of the rights of such prisoners in theory. However, these pieces of legislation had major shortcomings and were not reflected to any significant extent in regional judicial practices in the time period covered in this chapter. See Human Rights Watch, *China: Human Rights Developments 1996* and Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 204.

attempts to justify its human rights record. The White Papers consistently promoted what the Chinese government considered to be the important aspects of international human rights norms – that the rights to subsistence and development for a developing country such as China were of major importance, and that a country's particular historical, cultural and economic conditions would necessarily influence its understanding of human rights and its practices. The message was that China's human rights practices could only improve if its economy continued to develop. The White Papers did not deny the importance of civil and political rights, however, and claimed that these rights were only realised for Chinese citizens after the People's Republic of China was established in 1949. Most of the Papers continued to promote that human rights were an internal matter for a state and, therefore, external critics were not justified in criticising China's human rights practices. Conversely, the Papers also took the opportunity to highlight China's long engagement with and support of the UN's human rights efforts, indicating support for international efforts on human rights issues. As a concession to external and internal critics, some of the White Papers included frank acknowledgements of particular human rights abuses within China. For example, the criminal reform Paper in 1992 and the progress on human rights Paper in 1997 both admitted that there had been some abuses carried out by law enforcement agencies in preceding years, even though the numbers of abuses cited were relatively small when compared with the NGO reports.

By the 1995 White Paper on progress on human rights, the Chinese government was consistently indicating that a dialogue with its international critics was legitimate but that the non-confrontational dialogue approach was the most constructive method of communicating human rights concerns. A decreasing reference to the state sovereignty principle and recourse to the abuses of former colonial states was also evident in this Paper, again indicating that China was moving on from its view that its human rights practices were solely an internal matter. The later Papers did continue to argue, however, that the punishment of those who had committed crimes were not human rights abuses but legitimate state actions. China was continuing to assert its

right to establish how it would define criminal activity and, therefore, what constituted a human rights abuse at least in relation to political and religious prisoners.

According to the spiral model, if pressure by the transnational human rights network is maintained, throughout the tactical concessions phase it would be expected that the target state's identity, interests and behaviours would increasingly reflect international human rights norms. This is because the target state engages increasingly with argumentative discourses, moving away from concessions made in attempts to merely quieten its critics and instead engaging much more with the substance of the criticisms and acknowledging the validity of international human rights norms in the process.

By 1997 the Chinese government was engaging in both instrumental adaptation and argumentative discourses, but it was not evident that the latter process was becoming increasingly dominant. As in phase two, the Chinese government's dominant great power identity meant that its interests were reflected in its attempts to silence its critics and deny that it had carried out many of the abuses of which it had been accused. At the same time, it promoted its long engagement with international human rights forums in an acknowledgement that being a great power included engaging in these international debates.

However, some small indications that the Chinese government's identity may have been beginning to reflect more of the norms of the international human rights network were evident by 1997. These included acknowledgements in human rights White Papers published in 1992 and 1997 that law enforcement agencies were carrying out particular human rights abuses, and fewer references to the state sovereignty principle in a 1995 White Paper compared with earlier papers. The next chapter will explore whether there were further such indications throughout the 1997 to 2003 period of the Chinese government's tactical concessions phase.

The Chinese government's dominant great power identity was also reflected in its attempts to influence understandings of international human rights norms and their

enforcement mechanisms throughout 1991 to 1997. This was not just by communicating its human rights priorities and how the human rights of developing countries should be understood, but also by building an alliance of developing countries and lobbying its democratic state critics. The Chinese government placed much effort into building an alliance with this bloc against its Western critics, and found that its efforts were generally successful as reflected by the support its no-action motions at the UNCHR received from various developing countries. This success was also particularly evident at the time of the UN World Conference on Human Rights in 1993 when China's views on state sovereignty, the priority of the right to development, and that a country's human rights needed to be considered in the light of its historical, economic and cultural background, found their way into the Bangkok Declaration leading up to the Conference.

The Chinese government was particularly effective in its lobbying efforts that linked its democratic state critics' trade relationships with their human rights policies regarding China, in order to eliminate support for the annual UNCHR resolution process. As already discussed, by 1997 many democratic states were beginning to cease their support for the process and were instead promoting the bilateral dialogue approach as their preferred human rights policy. The lobbying of Chinese officials had also succeeded in 1993 in preventing the Sub-Commission from focusing on country-specific situations that were being dealt with by the UNCHR, and by 1997 in getting the Sub-Commission to support the dialogue approach. In addition, by 1997 Chinese lobbying had limited the degree to which the Working Group on Arbitrary Detention could call for a state to improve its human rights practices.

Therefore, by 1997 the Chinese government had had some impact on the enforcement mechanisms of international human rights norms. It had influenced the methods by which human rights in China would be discussed at the international level, and brought about the limiting of the operations of the UNCHR Sub-Commission and the Working Group on Arbitrary Detention. Therefore, unlike the countries studied by Risse et al., in the case of China there is a target state that has had an influence on if

not yet international human rights norms themselves, then at least some of their enforcement mechanisms and international expressions of priorities. Thus that part of the constitutive relationship between a target state and international human rights norms that is not focused on by the spiral model must be acknowledged in the case of China.

### **Conclusion**

China entered the tactical concessions phase in 1991 when it began to make significant concessions in response to its critics. Throughout the time period covered in this chapter, international human rights NGOs, in particular AI and HRW, continued to actively campaign about the abuses of the two core rights in China. Many public reports were released, UN bodies and democratic states were lobbied to encourage them to pressure China, and an engagement with the Chinese government itself continued to be sought. Pressure groups established by exiled Chinese dissidents also continued to provide information to international human rights NGOs on human rights abuses in China, and lobby some democratic states.

The efforts of these NGOs meant that democratic states were receiving credible information on continuing human rights abuses in China and pressures to respond. The US government's response was dominated by China's annual MFN status renewal debate between the administration and Congress from 1991 to 1994. This debate gave expressions of concern about human rights in China a very public forum despite that it also highlighted the decreasing will of the US Congress to support the linkage of the annual MFN renewal with human rights improvements. With increased pressure from the US business lobby, and China's effective negotiating with North Korea to defuse the conflict over its refusal of IAEA inspections, in 1994 China's MFN status was renewed without conditions. Other issues came to dominate the Sino-US relationship from this time and the main expression of concern about human rights in China by the US came from its continued support for the annual UNCHR resolutions on China.

In the wake of most of their sanctions applied after the Tiananmen Square massacre having been lifted, many of the other democratic states, including Australia, also responded to reports of abuses in China until at least 1996 by supporting the annual UNCHR resolution critical of China. In 1991 and 1992 Australia, Austria, the UK and Switzerland and France also sent human rights delegations to China. However, China's increasing economic growth rate from 1992 began to impact on the degree to which democratic states were willing to publicly pressure China over its human rights practices. Chinese officials also continued in their attempts to pressure democratic states to cease their public criticisms of China's human rights record and adopt the bilateral dialogue approach instead. Many ministerial and official visits between China and democratic states were dominated by trade considerations from this time. Aside from the annual UNCHR process, from 1992 to 1997 expressions of concern about human rights largely became something that was done behind closed doors in these trade meetings, if at all. By 1997 China's lobbying and its growing trade relationships meant that the bilateral dialogue approach began to be adopted by democratic states as the preferred way of expressing human rights concerns to China. Australia was one of the governments to indicate early support for this approach. The newly elected coalition government in 1996 made it clear that Australia's human rights policy would not conflict with Australia's interests. With this attitude, and the various sources of tensions that had emerged between China and Australia since 1992, the Australian government decided to continue the trend of increasing the emphasis placed on trade in the Sino-Australian relationship, and adopted China's preferred bilateral dialogue approach in return for no longer supporting the UNCHR resolution process.

The annual resolution critical of China at the UNCHR was the most prominent response of the UN to reports of continued human rights abuses in China throughout the time period of this chapter. From 1992 a draft resolution on China was sponsored by various democratic states at the UNCHR, but by 1997 the support for this process from these states was significantly declining. This was due in no small part to the



lobbying efforts of the Chinese government who had already had a victory in 1993 in contributing to the UNCHR Sub-Commission's decision to cease discussions on the human rights situations of specific countries that the UNCHR were focusing on. Other UN human rights bodies, mostly comprised of human rights experts rather than state officials, were able to continue to focus on human rights in China up until the end of 1997 and beyond. The Special Rapporteur on Summary and Arbitrary Executions, the Special Rapporteur on Religious Intolerance, the Special Rapporteur for Extrajudicial, Summary and Arbitrary Executions, the Special Rapporteur on Torture, the Committee Against Torture, the Working Group on Arbitrary Detention, and the Working Group on Enforced or Involuntary Disappearances all included China in their reports at various times throughout the 1991-1997 time period. The Special Rapporteur on Religious Intolerance was invited to visit China and did so in 1994, releasing a critical report upon the visit's completion, and by late 1997 the Working Group on Arbitrary Detention had also visited China.

Within China there were also calls for the Chinese government to improve its human rights practices. Various groups continued to organise expressions of dissent in the early 1990s, most of them identifying themselves as pro-democracy movements, human rights groups or workers rights groups. International human rights NGOs reported that many members of these groups were detained and by the mid 1990s there were understandably fewer reports of these groups being set up. However, this may not only be a reflection of the Chinese government's repressive responses. The increase in nationalism within China by the early 1990s, fuelled by the government, contributed to an anti-Western sentiment that even the intellectuals began to adopt as they began to question the motives of US human rights policy. This would have limited support for Chinese groups expressing themselves in terms of what were believed to be Western concepts of democracy and human rights. Thus by 1997 the ability of a domestic opposition to mobilise was extremely limited. Groups set up to further the rights of workers gained more support within China, reflecting the widespread layoffs and poverty that they engendered. Other potential sources of domestic opposition evident by 1997 were the increasing ability of many Chinese in at

least the southern regions to gain access to external information, and the continuing development of grass-roots democratic elections.

The Chinese government responded to the public reports and calls for human rights improvements by its internal and external critics by making some significant tactical concessions, as well as other responses, beginning in 1991. Tactical concessions included the promotion of its preferred understandings of international human rights norms. Beginning with the conferences on human rights held in Beijing in 1991, China's internal discussion on human rights expanded to include an international engagement with the release of nine White Papers on human rights, many of which were produced as a direct response to particular international criticisms. These Papers indicated the Chinese government's participation in argumentative discourses since these expressions were an engagement with China's critics over the substance of their criticisms and attempts to justify the government's human rights record.

Other concessions were evidence of the Chinese government practising instrumental adaptation as they were attempts to silence its critics rather than attempts to bring about meaningful improvements in its human rights practices. Such concessions included the release of small numbers of political and religious prisoners at various times throughout 1991 to 1997, signed the ICESCR in 1997 and resumed or began discussions with a number of international NGOs. These concessions were usually timed to coincide with decisions to be made by its external critics concerning issues such as China's MFN status, the IOC Olympic site for 2000 and the annual resolution on China at the UNCHR. Other evidence that the Chinese government was not ready to bring about meaningful improvements were the continuing reports throughout 1991 to 1997 of abuses of the two core rights in China. By the end of this time period there were thousands of Chinese citizens detained for "counterrevolutionary crimes" or "crimes against the state", and uses of torture and ill-treatment in places of detention and the use of the death penalty continued to be reported. Thus by 1997 the Chinese government was not engaging increasingly with argumentative discourses, indicating its limited progress through the tactical concessions phase. This reflected that the

Chinese government was continuing to define its interests and take actions consistent with its dominant great power identity.

Another reflection of this identity was the Chinese government's attempts to influence the international human rights norms and their enforcement mechanisms. China consistently promoted the priorities of the rights to subsistence and development and how the rights of citizens of developing countries should be understood through its White Papers, in public human rights forums, and in response to particular criticisms, for example, at the UNCHR. The Chinese government also cultivated an alliance of developing countries, lobbied its democratic state critics to limit the support for the annual resolution on China at the UNCHR, and lobbied to bring about changes to the UN's human rights mechanisms. China had a measure of success with these efforts, gaining the support of various developing countries at the UNCHR and in the lead-up to the UN World Conference on Human Rights in 1993, persuading many democratic states to review their support for the UNCHR resolution on China in 1997, and limiting the extent to which the UNCHR Sub-Commission and Working Group on Arbitrary Detention carried out their functions. These successes highlight that in the case of China it is important to focus on that part of the constitutive relationship between a target state and international human rights norms that is not focused on by the spiral model – the influence of a target state on these norms. This will be further explored in the following chapter where China's influence on international human rights norms and their enforcement mechanisms from 1997 to 2003 will be discussed.

## **Chapter Six - Phase Three: Tactical Concessions Part B 1997-2003**

### **Introduction**

This chapter covers the second stage of the Chinese government's tactical concessions phase, from 1997 to the end of 2003. As was outlined in the last chapter, according to the spiral model, in phase three it is expected that a target state feels compelled to make tactical concessions in response to the pressures of the transnational human rights network. The target state also participates in the socialisation processes of both instrumental adaptation and argumentative discourses, with the latter becoming more dominant as a target state progresses through phase three. As was found in the last two chapters, unlike most of the cases discussed by Risse et al., China engaged with both socialisation processes in the denial phase and this continued throughout the 1991 to 1997 part of the tactical concessions phase. In this chapter it will be shown that the Chinese government continued to engage in both socialisation processes throughout the second part of the tactical concessions phase, from 1997 to 2003.

To make it possible for a target state to progress to phase four of the spiral model, Risse et al. found that domestic opposition groups needed to be able to mobilise. As discussed in previous chapters, it is evident that the Chinese government had been able to effectively repress the efforts of domestic opposition groups from the time of the Tiananmen Square massacre in 1989 to 1997. From 1997 to 2003 it was once again evident that the Chinese government was able to repress any organised attempts that were perceived to oppose its rule. Along with the Chinese government's continued engagement in instrumental adaptation and argumentative discourses, the ability of the Chinese government to repress organised attempts at establishing opposition groups suggests that according to the characteristics of the spiral model the Chinese government remained in phase three by the end of 2003.

This chapter explores the responses and actions of both the transnational human rights network and the Chinese government in phase three, covering the time period from the

commencement of significant changes in most democratic states' human rights policy on China in 1997 to 2003. The responses of international human rights NGOs to human rights abuses in China will be discussed first. This will be followed by the responses of democratic states, with US and Australian government responses discussed in more detail to highlight the foreign policy of the former as the sole superpower in the international system, and the latter to illustrate the dilemmas faced by middle powers regarding China. The responses of the UN human rights bodies will then be explored. The Chinese government's concessions and other responses to the transnational human rights regime will next be examined, followed by domestic opposition groups' actions. Concluding the chapter will be a discussion of the Chinese government's participation in the instrumental adaptation and argumentative discourses socialisation processes, and its other actions in response to the transnational human rights network. This will emphasise the Chinese government's ability to influence the network, particularly through the changes the Chinese government has brought about to the human rights enforcement mechanisms. This discussion will once again highlight the part of the constitutive relationship between a target state and international human rights norms not focused on by the spiral model – the influence of the target state on these norms.

### **The Responses of International Human Rights NGOs**

From 1997 to 2003 international human rights NGOs were as active as ever, if not increasing their efforts to research and publicise information on human rights abuses in China and lobby UN bodies and democratic states. As Foot observed,

[t]he UN and individual governments have become highly dependent on the information NGOs provide. Moreover, these NGOs have become major contributors to human-rights policy developments: drafting resolutions in collaboration with UN officials; offering their findings as the basis for

questioning states that submit reports to treaty bodies; and providing legal expertise in the drafting of new human rights-related conventions.<sup>1</sup>

However, from 1997 it became evident that the changing nature of the international human rights engagement with China from public criticism to private and cooperative discussions and activities was going to have at least some impact on the non-government sector. This was in the form of a significant increase from 1997 in the involvement of private foundations in providing funding for legal reform and civil society projects in China.

Despite the international trend to move away from public criticism to private dialogues and cooperative activities, international human rights NGOs such as AI and HRW continued to be particularly active in their public criticisms of China's human rights record over the 1997 to 2003 time period. Both NGOs continued to document cases of human rights abuses within China and internationally disseminate this information. This included the publication of 21 AI reports on human rights in China and seven HRW reports, as well as media releases focused on particular human rights cases in China and annual reports on human rights abuses and developments in China.<sup>2</sup> In

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<sup>1</sup> Rosemary Foot, "Bush, China and Human Rights," *Survival* 45, no. 2 (2003), p. 171

<sup>2</sup> Amnesty International, *Amnesty International Report 1998: China* (1998 [cited 30 September 2003]); available from <http://www.amnesty.org/ailib/aireport/ar98/asa17.htm>. Amnesty International, *Amnesty International Report 1999* (1999 [cited 16 January 2004]); available from <http://www.amnesty.org/ailib/aireport/ar99/asa17.htm>. Amnesty International, *Amnesty International Report 2000* (2000 [cited 16 January 2004]); available from <http://www.web.amnesty.org/web/ar2000web.nsf/ebbd3384655495f2802568f500615e2f.1ea7833e9a544056802568f200552912!OpenDocument>. Amnesty International, *Amnesty International Report 2001* (2001 [cited 16 January 2004]); available from <http://web.amnesty.org/web/ar2001.nsf/webasacountries/CHINA?OpenDocument>. Amnesty International, *Amnesty International Report 2002* (2002 [cited 16 January 2004]); available from <http://web.amnesty.org/web/ar2002.nsf/asa/china!Open>. Amnesty International, *Amnesty International Report 2003* (2003 [cited 16 January 2003]); available from <http://web.amnesty.org/report2003/Chn-summary-eng>. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet* (1998 [cited 29 September 2003]); available from [http://www.hrw.org/worldreport/Asia-04.htm#P337\\_94962](http://www.hrw.org/worldreport/Asia-04.htm#P337_94962). Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet* (1999 [cited 16 January 2004]); available from <http://www.hrw.org/worldreport99/asia/china.htm>. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet* (2000 [cited 16 January 2004]); available from <http://www.hrw.org/wr2k/Asia-03.htm#TopOfPage>. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet* (2001 [cited 16 January 2004]); available from <http://www.hrw.org/wr2k1/asia/china.htm>. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet* (2002 [cited 16 January 2004]); available from <http://hrw.org/wr2k2/asia4.html>.

addition, AI called on the Chinese government to improve its human rights practices and in particular asked the Chinese government to release all political prisoners, ensure trials were fair, prevent the use of the practices of torture and executions, grant an amnesty to all who remained in prison for their involvement in the Tiananmen Square demonstrations in 1989, and account for those killed in Beijing in June 1989.<sup>3</sup>

AI and HRW continued to lobby UN human rights bodies and UNCHR member states and democratic states to support a resolution on China's human rights record. This included branches of AI in many democratic states continuing to lobby their governments to place human rights issues in China on the agendas of government and trade visits to China. For example, at the time of a trade delegation from Canada to China in February 2001, AI and other human rights NGOs lobbied the Canadian government to encourage the delegation to raise human rights concerns along with trade issues.<sup>4</sup> HRW also continued to lobby the US administration and Congress to pressure the Chinese government over its human rights abuses, for example, HRW participated in the US Congressional hearing on human rights in China in February 2002.<sup>5</sup> Other AI activities over this time period included AI officials participating in the EU-China human rights dialogue meeting in May 1998.<sup>6</sup> Little is publicly known about the content of the meetings and AI now refuse to participate in such dialogue meetings as the NGO considers that host governments gained more credibility from having AI involvement in the dialogue than the dialogues contributed to bringing about human rights improvements in China.<sup>7</sup> Reflecting their concerns about the

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Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet* (2003 [cited 16 January 2004]); available from <http://hrw.org/wr2k3/asia4.html>.

<sup>3</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 2000*.

<sup>4</sup> Amnesty International Secretariat Official, Interview, London, 30 March 2001.

<sup>5</sup> Human Rights in China, *News Update* (No.1 2002 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=289&sub category\\_id=264](http://iso.hrichina.org/iso/article.adp?article_id=289&sub category_id=264).

<sup>6</sup> Officials from the Council of Churches for Great Britain and Ireland were also allowed to participate in the dialogue meeting. However, the Chinese government refused to allow officials from the Free Tibet Campaign and the June Fourth Support Group to participate. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* (23 June 1998 [cited 5 December 2001]); available from <http://www.hrichina.org/reports/dialogue.html>.

<sup>7</sup> Amnesty International Secretariat Official. Other NGOs were allowed to participate in the October 1998 EU-China dialogue meeting and most of these reportedly also declined to participate again.

effectiveness of the bilateral dialogue approach to human rights, AI and HRW both lobbied the US administration to postpone the resumption of the US-China bilateral human rights dialogue planned for January 1999. Despite their efforts, the dialogue session proceeded as planned.<sup>8</sup> AI also participated in an EU-China seminar on the death penalty and the right to education in Beijing in 2001, and launched a Chinese language website on the prevention of torture and other human rights issues in 2003 in order to provide Chinese internet users with a source of information in these areas.<sup>9</sup>

Another international human rights NGO that was active concerning human rights abuses over the 1997 to 2003 period was Hong Kong and New York-based HRIC. Besides producing various reports and a quarterly journal devoted to human rights issues in China, the NGO provided reports to and met with members of UN human rights bodies, including the UN Committee Against Torture, the UN High Commissioner for Human Rights, the UN Committee on the Elimination of Racial Discrimination and the UN Working Group on Arbitrary Detention. HRIC representatives also attended the annual UNCHR sessions and lobbied for a resolution on China.<sup>10</sup> Other HRIC activities included supporting the actions of relatives of those who had died in Beijing in June 1989 in their petitioning of the Chinese government

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Human Rights In China, *The Human Rights Situation in China and the Dialogue on Human Rights* (2000 [cited 5 December 2001]); available from <http://www.hrichina.org/July2000-UKsubmission.html>.

<sup>8</sup> In contrast to AI and HRW, the US-based Lawyers' Committee advised the US administration to proceed with the dialogue and use it as an opportunity to criticise the Chinese government for not complying with the treaties it had acceded to including the ICCPR. Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), p. 240.

<sup>9</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, "Hong Kong: WWW.Endtorture.Org - New Amnesty International Chinese Language Website," *News Release Issued by the International Secretariat of Amnesty International* AI index: ASA 19/001/2003 25 March (2003). Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

<sup>10</sup> Human Rights In China, "Bulletin: March-May 2003," *China Rights Forum*, no. 2 (2003).

Human Rights In China, *HRIC Bulletin* (Fall 2001 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=1205&subcategory\\_id=204](http://iso.hrichina.org/iso/article.adp?article_id=1205&subcategory_id=204). Human Rights In China, *Impunity for Torturers Continues Despite Changes in the Law* (Summer/Fall 2000 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=434&subcategory\\_id=9](http://iso.hrichina.org/iso/article.adp?article_id=434&subcategory_id=9), p. 107.

Human Rights in China, "January-February Update," *China Rights Forum*, no. 1 (2003), p. 110.

Human Rights In China, *Hric Bulletin* (Winter 2000 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=420&subcategory\\_id=9](http://iso.hrichina.org/iso/article.adp?article_id=420&subcategory_id=9). Human Rights In China, *HRIC Bulletin*. Human Rights In China, *HRIC Bulletin* (No.2 2002 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=4216&subcategory\\_id=286](http://iso.hrichina.org/iso/article.adp?article_id=4216&subcategory_id=286).



for a criminal investigation in 1999,<sup>11</sup> launching an international campaign in support of the victims of the 1989 massacre and their families in 2000, and supporting a lawsuit being brought against Li Peng in the US by four former Chinese student leaders and the brother of a victim of the 1989 massacre in an attempt to seek redress.<sup>12</sup> HRIC also participated in the February 2002 US Congressional hearing into human rights practices in China.<sup>13</sup>

Some international human rights NGOs focused their attention on human rights abuses in the regions of Tibet and Xinjiang. NGOs that focused on Tibet included the ICJ which lobbied for a UN-sponsored referendum in Tibet, published a report on human rights abuses in Tibet in 1997, and protested to the Chinese government on behalf of a detained lawyer in 2003.<sup>14</sup> Other NGOs active in highlighting human rights abuses in Tibet and lobbying various democratic states for action included the Office of Tibet, International Campaign for Tibet, Free Tibet Campaign, Tibetan Centre for Human Rights and Democracy, Tibet Information Network and International Tibet Support Network. NGOs focused on human rights abuses in Xinjiang included the East Turkestan Information Center, Uyghur American Association and Uyghur Human Rights Coalition.<sup>15</sup>

A number of NGOs were established during the 1997 to 2003 time period by Chinese-born residents of other countries, some of whom were detained when they later visited China. These organisations sought to publicise human rights abuses in China and/or called for the democratisation of China. In 1998 the Foundation for China in the 21<sup>st</sup> Century was established in the US, calling for a democratic form of government and

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<sup>11</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 247.

<sup>12</sup> Human Rights In China, *HRIC Bulletin*. Human Rights In China, *Li Peng Lawsuit Fund* (Winter 2000 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=416&subcategory\\_id=12](http://iso.hrichina.org/iso/article.adp?article_id=416&subcategory_id=12).

<sup>13</sup> Human Rights in China, *Case File* (No. 2 2002 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=4253&subcategory\\_id=287](http://iso.hrichina.org/iso/article.adp?article_id=4253&subcategory_id=287).

<sup>14</sup> Human Rights in China, "News Update Late May-August 2003," *China Rights Forum*, no. 3 (2003), p. 7. International Commission of Jurists, "Tibet: Human Rights and the Rule of Law," (December: 1997). Ann Kent, *China, the United Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999). p. 220.

<sup>15</sup> Human Rights in China, "January-February Update," p. 110.

the rule of law in China, organising discussions involving China experts and issuing publications. The founder of the organisation, Yang Jianli, was detained upon his return to China in April 2002.<sup>16</sup> Wang Ce, the chairperson of another NGO set up by exiled Chinese, the Alliance for a Democratic China, received a four year prison sentence in February 2000 for 'entering China illegally and endangering state security'.<sup>17</sup> In late 2000 the Committee for the Investigation on Persecution of Religion in China was set up in New York by a Chinese born religious activist. The NGO has published two reports on religious persecution in China and continues to publish the details of arrests and the use of torture against Chinese religious practitioners on its website.<sup>18</sup> In April 2003 the China Federation Foundation was established in the US by Sun Gang, a New Zealand citizen, and Benjamin Lan, a US citizen. The Foundation supported the overthrow of the Chinese government and the democratisation of the country by forceful means if necessary. Both founders of the organisation travelled to China in 2003 in an attempt to set up a branch of the organisation in Beijing, and by May both had been detained by Chinese officials.<sup>19</sup>

Other international NGOs who publicly highlighted their concerns for human rights in China during the 1997 to 2003 period included the ICFTU, Reporters Sans Frontières (RSF), the World Psychiatric Association (WPA) and the Dui Hua Foundation. The ICFTU raised its concerns regarding the repression of members of non-official workers' organisations in China to the ILO in 1998 and 2002.<sup>20</sup> RSF and WPA campaigned on behalf of a detained internet publisher in 2001 and the forcible psychiatric treatment of political activists in 2003 respectively.<sup>21</sup> Adopting a different

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<sup>16</sup> Human Rights in China, *Case File*.

<sup>17</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>18</sup> Wang Yu, "Up Front with Wang Yu," *China Rights Forum*, no. 3 (2003).

<sup>19</sup> The Associated Press, *China Detains American, New Zealander* (New York Times, 26 May 2003 [cited 28 May 2003]); available from <http://www.nytimes.com/>.

<sup>20</sup> The ILO duly responded by raising these concerns with the Chinese government. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 135-36. See also Erik Eckholm, *Detained Labor Leader in China Is Hospitalized, the Police Say*. (New York Times, 30 March 2002 [cited 30 March 2002]); available from <http://www.nytimes.com/2002/03/30/international/asia/30CHIN.html?pagewanted=print>. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>21</sup> Erik Eckholm, *Psychiatrists Rebuke China for Blocking Inspection Visit* (New York Times, 31 May 2003 [cited 31 May 2003]); available from

approach from most other international human rights NGOs focusing on China, the Dui Hua Foundation has quietly lobbied Chinese officials on behalf of particular Chinese political detainees since 1999. The Foundation was established by former US businessman John Kamm who has been able to use the contacts he had made in Chinese agencies from his business experiences in China to make inquiries to appropriate government agencies on behalf of political detainees. Kamm himself has been involved in this type of campaigning in China since 1990 and estimates that since then he and the Foundation have inquired into the cases of approximately five hundred detainees and believes conditions have at least improved for half of these people.<sup>22</sup>

Private foundations also adopted a different approach to many international human rights NGOs concerning human rights in China, and in 1997 more of these foundations began to follow the leads of democratic states by engaging with China in private discussions and activities on human rights issues. Beginning with the normalisation of relations between the US and China in 1979, predominantly US donor institutions began to work with Chinese agencies in developing legal projects to assist with China's economic transition. These relationships expanded throughout the 1980s and 1990s and after the US-China presidential summits and the adoption by some of the democratic states of the human rights dialogue approach in 1997, the number of donor institutions and funded projects in the area of the rule of law in China markedly increased.<sup>23</sup> For example, the International Bridges to Justice and Asia Foundation have provided development and support in the area of legal aid, and the Ford Foundation has provided funding for legal reform projects. The Asia Foundation, Ford Foundation and American Himalayan Foundation have also provided funding to

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<http://query.nytimes.com/gst/abstract.html?res=F6081EFC3C540C728FDDAC0894DB404482>. Human Rights in China, "News Update Late March-May 2003," *China Rights Forum*, no. 2 (2003), p. 7. Elisabeth Rosenthal, *Psychiatric Group to Investigate China, but Resists Penalties* (New York Times, 26 August 2002 [cited 26 August 2002]); available from <http://www.nytimes.com/2002/08/27/international/asia/27CHIN.html>.

<sup>22</sup> Once the Foundation receives any information on detainees, it passes it to international human rights NGOs, any interested states and detainees' relations where possible. Sophia Woodman, *Dedicated Dialogue* (China Rights Forum, Winter 2000 [cited 31 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=418&subcategory\\_id=12](http://iso.hrichina.org/iso/article.adp?article_id=418&subcategory_id=12).

<sup>23</sup> Human Rights In China, "Funding the Rule of Law and Civil Society," *China Rights Forum*, no. 3 (2003), p. 22.

assist Chinese universities focus on civil society research and development.<sup>24</sup> In addition, private funding organisations such as the International Republican Institute, the Ford Foundation and the Carter Center have provided assistance to the Chinese government to improve village-level democratic elections.<sup>25</sup> By 2003 more than 500 international NGOs and foundations were investing over \$US100 million in legal reform and civil society projects in China each year.<sup>26</sup> It is difficult to gauge the effectiveness of these projects since little is publicly known about these projects' designs, 'their standards and criteria for selection of partners and program participants, [and] the methodologies deployed in the implementation of projects'.<sup>27</sup> They have also been criticised for not incorporating international human rights norms into their design, conduct and evaluation, and for not drawing on the expertise of human rights NGOs enough.<sup>28</sup> However, the funding organisations providing assistance to village-level democratic elections appear to have had some success. For example, the efforts of the International Republican Institute and the Ford Foundation contributed to universal suffrage and secret ballots being adopted in Fujian province.<sup>29</sup>

In the wake of the decision by many democratic states to adopt the bilateral dialogue approach concerning human rights in China by the end of 1997 and cease their support for the UNCHR resolution process, NGOs began to provide their critique of this policy change. Reports were forthcoming from HRIC, the Free Tibet Campaign and the

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<sup>24</sup> Between 1988 and 2001 the Ford Foundation provided grants of \$US128 million for legal reform projects. *Ibid.* pp. 29-30.

<sup>25</sup> The Chinese government invited these organisations to assist with the improvement of village-based elections in 1993, although the Ford Foundation commenced work in this area in 1992 by organising a conference on village self-governance in Beijing including international China scholars. In 1994 in Fujian province the International Republican Institute was the first international NGO observer of village elections. The Carter Center began working with the Chinese government in 1998 on promoting democratic election procedures in villages by collecting data on elections to assist with decisions on what training and resources were needed. *Ibid.* pp. 29-30.

<sup>26</sup> *Ibid.* p. 22.

<sup>27</sup> *Ibid.* p. 30.

<sup>28</sup> *Ibid.* p. 30. The World Bank and Asian Development Bank also began funding assistance programmes in the areas of the rule of law and improved governance from the late 1990s, although the focus of these institutions' programmes has been to improve China's market operations. United States General Accounting Office, "Foreign Assistance: U.S. Funding for Democracy-Related Programs (China)," (GAO-04-445R Democracy-Related Programs (China), 2004).

<sup>29</sup> See Becky Shelley, "Political Globalisation and the Politics of International Non-Governmental Organisations: The Case of Village Democracy in China," *Australian Journal of Political Science* 35, no. 2 (2000), 225-40.

International Campaign for Tibet detailing their concerns about the bilateral dialogue approach and recommendations to democratic states that had adopted this approach.<sup>30</sup> AI also produced its own internal reports on the dialogue approach.<sup>31</sup> In addition to highlighting their concerns over this change in policy, international human rights NGOs' efforts in lobbying and providing information to democratic states and UN bodies regarding human rights abuses in China provided a source of pressure on these states to act throughout 1997 to 2003.

### **The Responses of Democratic States**

From 1997 most democratic states began to waiver in their support for a resolution on China at the UNCHR, reflecting China's constant lobbying throughout the 1990s for this outcome and the increasing importance that China was assuming in most democratic states' foreign policies. By the end of 1997 the Chinese government had begun bilateral human rights dialogues and/or technical cooperation programmes with a number of democratic states, most of which have not since supported a UNCHR resolution on China's human rights record. One significant exception to this was the US government which maintained its support for the resolution process for a number of years after most other democratic states had ceased their support. The responses of the US government to reports of human rights abuses in China will first be explored in this section, to detail the relationship between the US as sole superpower and China as an increasingly important international actor. The responses of other democratic states will then be explored, including the Australian government's responses in more detail to highlight the dilemmas of a middle power in trying to balance economic and strategic interests with human rights concerns.

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<sup>30</sup> See discussion in Chapter Seven on this critique. These reports included Free Tibet Campaign, Human Rights in China, and International Campaign for Tibet, "Behind Closed Doors: Bilateral Dialogues on Human Rights," *China Rights Forum*, no. 2 (2003), 22-29.

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<sup>31</sup> Amnesty International Australia Government Liaison Group member, Interview, Canberra, 16 August 2001.

## US Government Responses

As discussed in the previous chapter, by 1997 the US was showing a preference for the bilateral dialogue approach and making fewer public expressions of concern regarding human rights abuses in China, even though it did support the draft resolution on China at the 1997 UNCHR session. In an effort to secure a more constructive relationship, President Jiang Zemin was invited to a summit with President Clinton in the US that was held in October 1997. The Presidents agreed to 'build toward a constructive strategic partnership between China and the United States through increasing cooperation to meet international challenges and promote peace and development in the world.'<sup>32</sup> Despite the potential divisiveness of the topic of human rights, Clinton and Congress members did raise some human rights concerns with Jiang during his visit, highlighting particular concerns and the fate of particular political prisoners such as Wei Jingsheng. Clinton emphasised to the Chinese President that to be a great power in the late twentieth century, China needed to encourage freedom of expression to be competitive in the era of information and to 'embrace...the democratic values of openness and political tolerance'.<sup>33</sup> The summit also saw the beginning of a new phase in US-China relations concerning human rights – the US administration proposed that it would provide legal training and materials to support and encourage China's efforts to move towards the rule of law.<sup>34</sup>

The following year, the US joined the EU and other democratic states in not supporting a resolution on China at the 1998 UNCHR session, despite both houses of Congress urging the administration to continue pursuing the UNCHR forum. The administration gave as its reasons that China had released Wei Jingsheng and indicated

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<sup>32</sup> Joint statement between Presidents Jiang and Clinton in October, 1997, cited in Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001). p.56. See also David Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000* (Los Angeles: University of California Press, 2001), pp. 55-56.

<sup>33</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 212. See also Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

further prominent political prisoners would soon be released, and that both UN human rights covenants would soon be signed.<sup>35</sup> This was indicative of the will of the US administration to embrace the cooperative bilateral dialogue approach to human rights in China.

President Clinton visited China in June 1998 for another Sino-US summit and, in a likely response to much criticism from the US media and Congress over the visit, made a speech on human rights to Chinese students that the Chinese government agreed to broadcast. During this speech Clinton repeated his message to the Chinese President the previous year that freedom of thought and expression were necessary to fulfill the potential of China's economic development. The Chinese also agreed to broadcast a joint press conference between the Presidents during which Clinton condemned the Chinese government's actions in June 1989. This resulted in much more favourable coverage of the visit back in the US, despite Clinton's refusal to meet with any political dissidents. During the summit Clinton also promoted the US offer to provide China with legal training and materials, and their desire to resurrect the bilateral human rights dialogue with China (suspended since 1995) and set up a NGO human rights forum.<sup>36</sup>

There were other occasions in 1998 when the US Congress expressed its concerns over particular human rights abuses in China. In December the Congress highlighted its concerns over the sentencing of three prominent dissidents in China, Wang Youcai, Qin Yongmin and Xu Wenli, to between eleven and thirteen years.<sup>37</sup> The Congress also passed an International Religious Freedom Act that established an Office of Religious Freedom and a US Commission on International Religious Freedom. The Act was subsequently signed into law by President Clinton and, in addition, lobbying

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<sup>34</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 213-14

<sup>35</sup> Ibid. p. 220. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. By the end of 1998 both the ICESCR and ICCPR had been signed by the Chinese government. Rosemary Foot, "Bush, China and Human Rights," *Survival* 45, no. 2 (2003), p. 175.

<sup>36</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 229-230. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*.

<sup>37</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 220.

by US Congress members persuaded Clinton to get Chinese agreement to allow three US religious leaders to visit China, including Tibet, for eighteen days in February 1998.<sup>38</sup>

The US and China planned to resume their bilateral human rights dialogue in January 1999 amidst growing pressure from the US Congress and some NGOs to cancel or postpone the dialogue and sponsor a resolution on China at the UNCHR instead. Despite this pressure, the dialogue proceeded as planned and the US delegation raised issues including the repression of members of the China Democracy Party (CDP), the sale of goods produced by prisoners, abuses of the right to freedom of religion, abuses in Tibet, and 'the issue of relief for those imprisoned immediately after Tiananmen under the now-defunct classification of counter-revolutionary crimes'.<sup>39</sup> The Chinese delegation provided some information about a number of prisoners and raised concerns about the US human rights record including the death penalty and US failure to ratify the international covenants. The US administration also communicated to the Chinese that government officials from any department would be encouraged to raise human rights issues in their dealings with Chinese officials. This policy was reinforced the same month in a speech by the US Secretary of State, Madeleine Albright, upon the occasion of the twentieth anniversary of normal relations between the US and China where she outlined US concerns over the imprisonment of CDP members and that China needed to put the human rights standards outlined in the ICCPR into practice.<sup>40</sup>

After the bilateral dialogue, the US administration still faced NGO and Congress pressure to sponsor a resolution at the UNCHR meeting in March 1999.<sup>41</sup> Chinese officials at the dialogue had made it clear that if the US did sponsor a resolution, the next dialogue session would be jeopardised. Despite this pressure, and a clear lack of

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<sup>38</sup> Foot, "Bush, China and Human Rights," p. 176.

<sup>39</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 240.

<sup>40</sup> *Ibid.* pp. 241-42.



support from most of the other democratic states, the US administration felt it had to sponsor a resolution given the increased levels of repression Chinese political activists had faced, and the continued reports of abuses in Tibet. Poland was the only other state to co-sponsor the resolution and China's subsequent no-action motion passed comfortably.<sup>42</sup> In the wake of the UNCHR session, Premier Zhu Rongji visited the US on his first official visit in April 1999 indicating the Chinese government's intention to continue to engage with the US government despite its actions at the UNCHR. Though this visit was primarily dominated by discussions on China's desire to join the WTO, President Clinton did raise human rights concerns including human rights in Tibet.<sup>43</sup>

Relations between the Chinese and US governments deteriorated in May 1999 when the Chinese embassy in Belgrade was accidentally bombed by NATO. This resulted in a strong reaction from the Chinese government,<sup>44</sup> including the suspension of high-level government talks for four months after which agreement was made to resume discussions on China's desire to join the WTO. The bombing also resulted in the suspension of military exchanges between the two countries until January 2000, the suspension of talks on arms control and proliferation until June 2000, and a suspension of the human rights dialogue until late 2001.<sup>45</sup>

In the wake of the Chinese government's suspension of the US-China bilateral dialogue, and reports of its repressive responses to members of the Falun Gong sect in late 1999, the US government sponsored another resolution on China at the 2000 UNCHR session. Once again, the other democratic states did not support the

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<sup>41</sup> In February the Senate unanimously voted to pressure the administration to sponsor a resolution. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 60.

<sup>42</sup> The voting on the no-action motion was 22 votes in favour, 17 against with 14 abstaining. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 242-23. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*

<sup>43</sup> Ibid.

<sup>44</sup> See *The Chinese Government's Tactical Concessions and Other Responses to the Transnational Human Rights Network* section.

<sup>45</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 61. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000*, pp. 59-60.

resolution and China's no-action motion was comfortably passed.<sup>46</sup> However, no doubt out of concern that the US-China trade relationship should not be damaged by the NATO bombing and the US sponsorship of the UNCHR resolution on China, Clinton instigated efforts to give China permanent normal trading relations status. With many Democratic members of Congress opposed to such a bill, the Clinton administration and the US business community put much effort into lobbying. The bill passed with a more comfortable majority than had been anticipated, given that a relatively strong coalition of unions, human rights activists, a number of religious groups and the Democratic leadership in the House of Representatives had been opposed to the bill and were also lobbying Congress members. The deciding factor in persuading ambivalent Democratic members of Congress to vote in favour of the bill was a number of measures introduced to 'the bill to create an independent commission to monitor China's human rights and compliance to trade agreements'. Despite these measures being criticised as having no reinforcement power, they were enough to generate more than the required support for the bill.<sup>47</sup>

With the US-China trade relationship on its way to being "normalised", relations between the two governments appeared to be on a stronger footing towards the end of 2000. However, with the beginning of the Bush administration in the White House from the beginning of 2001 further limits to improved US-China relations were evident. President Bush had announced during his presidential campaign that his administration would consider China as a strategic competitor as opposed to a partner.<sup>48</sup> While this label was dropped at the beginning of the Bush's

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<sup>46</sup> The no-action motion passed 22 votes in favour, 18 against and with 12 abstaining. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, footnote 58, p. 246. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 60.

<sup>47</sup> The bill passed by a majority of forty votes. Ibid. pp. 62-64. Quote p. 64. See also Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>48</sup> Bush considered that the US relationships with its democratic Asian allies Japan and South Korea should be given a higher priority than the US relationship with China. Foot, "Bush, China and Human Rights," p. 176. David E. Sanger, *China Is Treated More Gently Than North Korea for Same Sin* (New York Times, 21 February 2002 [cited 21 February 2002]); available from <http://www.nytimes.com/2002/02/21/international/asia/21MISS.html?pagewanted=print>.

administration<sup>49</sup>, the US President did raise with the Chinese President the contentious issues of Taiwan and his administration's plans to develop a missile defense system.<sup>50</sup> Despite this, it was evident that the Chinese government was still willing to pursue good relations with the US as Chinese Vice Premier Qian Qichen visited the US President in March 2001.<sup>51</sup> During this visit Bush communicated that human rights would continue to be a part of US relations with China by raising concerns about the detention of a number of academics in China, all US citizens or permanent residents. The Bush administration and Congress continued to actively push for their release and two of the academics were released just prior to Secretary of State Colin Powell's visit to Beijing in July. The same month as the Vice Premier's visit to the US, the Bush administration also sponsored a resolution on China at the UNCHR session, particularly mentioning the treatment of Falun Gong followers.<sup>52</sup>

Relations between the US and China further deteriorated throughout the first half of 2001 with the Chinese capture of a US naval spy aircraft in April<sup>53</sup>, President Bush meeting with the Dalai Lama in May<sup>54</sup>, and the US government issuing the former Taiwanese President Lee Teng-hui a tourist visa<sup>55</sup> and allowing Taiwan President Chen Shui-bian to visit the US and meet with various politicians.<sup>56</sup> By July the US government was taking a more conciliatory approach towards China with the first visit to China by a high level Bush administration official, the Secretary of State Colin

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<sup>49</sup> James Mann, *Democratisation (and Its Limits) in Greater China* (Foreign Policy Research Institute A Catalyst for Ideas, 2004 [cited 19 January 2004]); available from Foreign Policy Research Institute <http://www.fpri.org>.

<sup>50</sup> Ross Terrill, *China, the Uncertain Ally* (New York Times, 19 February 2002 [cited 19 February 2002]); available from <http://www.nytimes.com/2002/02/19/opinion/19TERR.html?pagewanted=print>.

<sup>51</sup> Zhou Bian, "Qian's US Visit a Great Success," *Beijing Review* 12 April (2001), 8.

<sup>52</sup> Foot, "Bush, China and Human Rights," p. 176.

<sup>53</sup> The US aircraft had been on a spy mission off the Chinese coast. After reportedly accidentally colliding with one of two Chinese fighter jets that were sent to challenge it, killing the pilot, it made an emergency landing on Hainan. The Chinese government detained the 24 US crew, agreeing to release them ten days later after a US government apology. John Gittings, "Long Term Goals Sway Chinese," *The Guardian*, 12 April 2001, 12.

<sup>54</sup> Foot, "Bush, China and Human Rights," p.176.

<sup>55</sup> Xu Hongzhi, "US Government: One Mistake after Another," *Beijing Review* 10 May (2001), 10.

<sup>56</sup> Liu Jiang, "Sino-U.S. Relations Develop in Twists and Turns," *Beijing Review* 27 December (2001), 11.

Powell, who communicated the US desire to improve its relations with China.<sup>57</sup> The governments subsequently agreed to resume their bilateral human rights dialogue in October.<sup>58</sup> That month also saw President Bush and President Jiang Zemin meet for their first bilateral talks during the Asia Pacific Economic Cooperation Summit in Shanghai. Bush raised human rights concerns at this meeting, including encouraging the Chinese government to hold talks with the Dalai Lama and that no government should repress the rights of minorities in the name of the anti-terrorism campaign.<sup>59</sup> To further improve relations with China, in December the Bush administration gave the presidential seal to the 2000 Congress bill granting China permanent trade status, thus "normalising" the US-China trade relationship.<sup>60</sup>

In the aftermath of the September 11, 2001 attacks on the US, throughout 2002 the campaign against terrorism and strategic concerns dominated the US-China relationship. The US government's international priorities included to secure UN Security Council backing for military action in Iraq, and get North Korea to dismantle its nuclear weapons programme and Pakistan to join the anti-terrorist coalition. To gain the Chinese government's support for these priorities, the US government acknowledged the power status of China by participating in joint presidential summits, did not oppose China's bid for the 2008 Olympics, supported China's accession to the WTO, and labelled the East Turkestan Islamic Movement in Xinjiang a terrorist organisation.<sup>61</sup> In addition, the US had lost its seat at the UNCHR by the 2002 session and so could not sponsor a resolution on China.<sup>62</sup> In return the Chinese government

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<sup>57</sup> Zhou Bian, "Powell: Abandon the Wording of Strategic Competitor," *Beijing Review* 16 August (2001), 10.

<sup>58</sup> Foot, "Bush, China and Human Rights," p.177.

<sup>59</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>60</sup> The Associated Press, "Us Opens Trade," *The West Australian*, 29 December 2001, 30.

<sup>61</sup> Kenneth Lieberthal, *Has China Become an Ally?* (New York Times, 25 October 2002 [cited 25 October 2002]); available from

<http://query.nytimes.com/gst/abstract.html?res=F10C12FC3B580C768EDDA90994DA404482>.

Labelling the East Turkestan Islamic Movement in Xinjiang a terrorist organisation gave the Chinese government's repressive measures in Xinjiang some support, even though US Deputy Secretary of State Richard Armitage encouraged the Chinese government to protect the rights of the Uighurs and raised concerns over a number of political prisoners in the region when he visited China in August to make the announcement. Mann, *Democratisation (and Its Limits) in Greater China*.

<sup>62</sup> No other government was willing to sponsor a resolution on China and so this issue did not hamper closer US-China relations in 2002, nor China's relations with other previous supporters of resolutions.

appeared to minimise its resistance to attempts to get the UN Security Council to support military action in Iraq, supported US attempts to persuade North Korea to dismantle its nuclear weapons programme, helped to persuade Pakistan to join the anti-terrorist coalition, and announced plans to restrict its exports of missile technology to North Korea, Iraq, Iran, Libya and Syria.<sup>63</sup>

Despite these US priorities, at least some human rights concerns continued to be raised by US leaders during talks dominated by anti-terrorist efforts and strategic issues with their Chinese counterparts in 2002. President Bush visited Beijing in February for the first time and stressed the need to respect the freedom of religion during his talks with President Jiang Zemin and in a national Chinese telecast.<sup>64</sup> Jiang visited the US in October and met with Bush who again raised concerns about the repression of ethnic minorities in China. Vice President Hu Jintao, Jiang's successor, visited the US in May and Bush stressed his concerns for religious freedoms and the US Secretary of State Colin Powell raised the rights of Tibetans.<sup>65</sup> In addition, reflecting domestic concerns that the human rights dialogue process was not bringing about improvements in human rights practices in China, the US government pressured China to show that progress had been made since the October 2001 dialogue meeting. China subsequently released a few political prisoners and allowed the representatives of the Dalai Lama to visit Tibet<sup>66</sup> just prior to the discussions between Presidents Bush and

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Diana Ayton-Shenker and John Tessitore eds, *A Global Agenda: Issues before the 56th General Assembly of the United Nations, 2001-2002* ed. (Lanham, Maryland: Rowman and Littlefield Publishers 2002), p. 152. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>63</sup> James Dao, *Closer Ties with China May Help US on Iraq* (The New York Times, 4 October 2002 [cited 4 October 2002]); available from <http://query.nytimes.com/gst/abstract.html?res=F10C12FD3D5F0C778CDDA90994DA>. According to the US government, missile technology sales continued to Iran in 2003. However, with the US imposing export controls on a Chinese company it believed was selling missile products to Iran, the Chinese government responded by denying that any such sales had taken place. The Associated Press, *US Condemns China on Arms Proliferation* (New York Times, 23 March 2003 [cited 23 March 2003]); available from <http://www.nytimes.com/>.

<sup>64</sup> Lynne O'Donnell, "Bush Prays for China's Freedom," *The Weekend Australian*, 23-24 February 2002.

<sup>65</sup> In an expression of the limits that the Chinese Vice President had for discussions on human rights during this visit, Hu refused to accept four letters from Congress leaders asking for improvements in human rights, including the release of political prisoners. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>66</sup> This visit by the exiled Tibetans was described by the Chinese government as a private tour of their homeland in order to see the economic advancements that had been made since Chinese rule. Despite

Jiang in October. Despite this progress being considered by at least one NGO to be 'minimal'<sup>67</sup>, the US government participated in a human rights dialogue meeting in Beijing in December that included a visit to Xinjiang in an attempt to pressure the Chinese government to not use the listing of the East Turkestan Islamic Movement as a terrorist organisation as justification for repression in the region. Upon completion of the two day talks, US officials announced that the Chinese government had agreed to accept visits by the UN Special Rapporteur on Torture, the Special Rapporteur on Religious Freedom and the Working Group on Arbitrary Detention on these bodies' terms.<sup>68</sup>

By the beginning of 2003 the US-China relationship appeared to have stabilised and security, strategic and trade issues continued to dominate high-level discussions. In a move likely to have been in response to the growing cooperation between the US and China, as well as the Chinese government's recent invitation for the Dalai Lama's representative to visit Beijing for discussions on Tibet's autonomy and the release of four Tibetan prisoners, the US government did not lobby for a resolution on China at the 2003 UNCHR session.<sup>69</sup> The closer relationship between the US and China was particularly evident in December when Prime Minister Wen Jiabao was received by President Bush in the US and more pomp and ceremony was reportedly turned on for Wen than any other number two government leader to have been so far received by the Bush administration.<sup>70</sup>

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this, the visit and talks between the Dalai Lama's representatives and Chinese officials did represent some thawing of the Chinese leadership's previous steadfast refusal to engage with the Dalai Lama or his representatives. Erik Eckholm, *Dalai Lama's Envoy Hopeful for China Talks* (New York Times, 30 September 2002 [cited 30 September 2002]); available from <http://query.nytimes.com/gst/abstract.html?res=F40E14F83F5C0C738FDDA008941A404482>.

<sup>67</sup> HRW described this as 'minimal' progress. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>68</sup> Reuters, *US to Reinforce Rights Concerns in Northwest China* (New York Times, 18 December 2002 [cited 19 December 2002]); available from <http://www.nytimes.com/reuters/p.../politics-rights-china.html?pagewanted=print&position=To>.

<sup>69</sup> Edward Alden, "White House Drops Censure of China's Human Rights," *The Financial Times*, 12-13 April 2003, 13.

Foot, "Bush, China and Human Rights," p.181.

<sup>70</sup> The pomp and ceremony included a nineteen gun salute that is two gun shots short of that given to a head of state. David E. Sanger, *Bush Lauds China Leader as 'Partner' in Diplomacy* (New York Times, 10 December 2003 [cited 11 December 2003]); available from <http://www.nytimes.com/2003/12/10/international/asia/10PREX.html?ex=1072143747&ei>.

By the end of 2003, despite the closer relationship that had developed between the US and Chinese governments and the US not supporting a resolution at the UNCHR, human rights remained at least some part of the bilateral relationship. Human rights concerns were still raised at high level meetings by the US, including appeals for the release of particular political and religious prisoners.<sup>71</sup> Congressional members and human rights NGOs continued to lobby the US administration to at least maintain if not increase this focus on human rights, and US media reports continued to include details of US actions on human rights in China and some instances of abuses in China. Thus, as Foot concluded, 'the US has not retreated from its approach to human-rights promotion in China because it is still politically constrained from doing so.'<sup>72</sup> But security, strategic and trade issues were dominating the relationship and US support for the UNCHR resolution process in 2002 and 2003 was sacrificed in the name of closer Sino-US ties. In this regard the US response to human rights abuses in China was similar to those of other democratic states, although most of these had ceased their support for a resolution on China by 1998.

#### Responses of Other Democratic States

As discussed in the previous chapter, some of the democratic states ceased their support for a resolution on China at the 1997 UNCHR process and commenced or resumed bilateral human rights dialogues with the Chinese government as a trade-off. Some of these states also conducted technical cooperation programmes with the Chinese government during the 1997 to 2003 period. The adoption of these responses reflected the years of lobbying by the Chinese government to prevent this public form of censure, and the increasing importance that the relationship with China was assuming to these democratic states. These programmes mostly focused on legal reform activities and some were specifically focused on human rights. The bilateral

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<sup>71</sup> One instance of the Bush administration's action on human rights in China included pushing the Chinese government for the release of Yang Jianli, a Chinese-born US resident who was detained in China in April after entering China to investigate workers' protests in 2002. Human Rights in China, "News Update Late May-August 2003," p. 8.

dialogues and technical cooperation programmes became the dominant responses of these democratic states to reports of human rights abuses in China over the 1997 to 2003 time period. States that have participated in at least one of these forms of response include Australia, Canada, Brazil, Japan, Norway, the UK, Sweden, Germany and Finland as well as the EU.

Since 1997 the EU and China have engaged in human rights dialogue meetings twice a year and following Chinese lobbying, and the efforts of the French government in 1998 to persuade other EU member states to not support resolutions on China, the EU has declined to sponsor a resolution at the annual UNCHR sessions.<sup>73</sup> In 1998 the European Commission adopted a new policy towards China, one that emphasised deepening economic relations and the dialogue approach for issues such as human rights, including a technical assistance programme focused on establishing the rule of law in China. However, the technical assistance programme has only had a small focus on human rights.<sup>74</sup> In addition, by early 1999 some EU officials began calling for the need for specific progress to be made to ensure the dialogue process retained its credibility and the setting of benchmarks by which to measure progress. There were also concerns in government circles that perhaps the EU should reconsider not sponsoring resolutions at the UNCHR.<sup>75</sup> At the beginning of 2001, after nine EU-China dialogue meetings and growing public pressure for results of the meetings to be shown, the EU released a set of objectives for the dialogue process.<sup>76</sup>

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<sup>72</sup> Foot, "Bush, China and Human Rights," p. 181.

<sup>73</sup> The EU had begun a human rights dialogue with China in 1995 but in 1996 the Chinese government suspended it after the EU supported a resolution on China at the UNCHR. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet* Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 73-74.

<sup>74</sup> One estimate of the amount of EU aid to China spent on human rights projects from 1998 to 2003 was only E4.86 million out of a total of E302 million in aid. This amounts to 1.6 percent of the total EU aid to China being spent on human rights projects over this period. Sophia Woodman, *Bilateral Aid to Improve Human Rights* (51 January-February) (China Perspectives, 2004 [cited 31 March 2004]); available from [http://www.cefc.com.hk/cgi-bin/restricted2\\_gb.cgi](http://www.cefc.com.hk/cgi-bin/restricted2_gb.cgi)

<sup>75</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 239-40.

<sup>76</sup> These included that the dialogue would facilitate 'China's ratification of UN covenants, cooperation with UN human rights mechanisms, restrictions on the use of the death penalty, and international access



Besides the biannual EU-China human rights dialogue meetings and the small focus of the EU-China technical assistance programme on human rights, there were a number of other occasions where EU leaders raised human rights concerns to the Chinese government from 1997 to 2003. These included an EU mission sent to Tibet for ten days in May 1998<sup>77</sup> and EU leaders formally raising human rights concerns with Chinese leaders in December 1999 during a delegation to China. The EU leaders encouraged the Chinese government to ratify the two UN human rights conventions it had recently signed, cease using the death penalty, resume discussions with the Dalai Lama, and also raised concerns over reports of the repression of democracy activists and Falun Gong members.<sup>78</sup> In 2002 the EU General Affairs Council recommended China ratify the ICCPR, take steps to cease the use of the death penalty, cooperate with the UN human rights mechanisms, cease the use of torture, and respect the rights of prisoners, Tibetans, Uighurs and the freedoms of association, religion and expression. The EU External Affairs Commissioner Chris Patten met with President Jiang Zemin in China in March 2002 and raised human rights concerns including the rights of Tibetans and the use of the death penalty. Later that year, EU leaders communicated their concerns over the use of torture and the death penalty and the abuses of minority rights to Chinese leaders at an EU-China summit meeting.<sup>79</sup>

EU-China relations deepened over the 1997 to 2003 period with visits to and from China of high-level European and Chinese leaders. Talks were generally dominated by trade and economic concerns, however, human rights issues were privately raised during at least some of these visits, for example, the 1998 visits to China by the French Prime Minister Lionel Jospin and Foreign Minister Hubert Védrine and UK Prime

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to prisoners in Tibet and Xinjiang'. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>77</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

<sup>78</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 74.

<sup>79</sup> Human Rights in China, *News Update*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

Minister Tony Blair.<sup>80</sup> Chinese officials were reportedly also given lists of political prisoners of concern to the EU during such high-level visits.<sup>81</sup> The extent to which these European governments would go to ensure that Chinese leaders felt welcomed in their countries was illustrated in the UK where protesters were banned along the route that President Jiang travelled to Buckingham Palace during his 1999 visit.<sup>82</sup>

Aside from its involvement in the EU-China human rights dialogue meetings, in late 1997 the UK began its own human rights dialogue with China. The Chinese government agreed to commence human rights dialogue meetings and a technical cooperation programme with the UK in September, despite the UK co-sponsoring the resolution on China at the 1997 UNCHR session, reflecting the politically smooth transfer of Hong Kong to Chinese rule in mid 1997 and UK and Chinese intentions to pursue a more cooperative partnership. This relationship would be dominated by the expansion of trade and investment, and human rights would largely be expressed through the relatively non-confrontational constructive dialogue approach.<sup>83</sup> There

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<sup>80</sup> Other high-level visits included Chinese President Jiang Zemin being formally received by the UK, France and Portugal in 1999 and Germany in 2002. During Jiang's visits to the UK and France, business contracts worth 2 billion pounds and \$US2.5 billion were signed in the UK and France respectively. The German Chancellor Gerhard Schröder visited China twice in 1999 and once in 2001 and 2003. The UK Foreign Minister Jack Straw and the Deputy Prime Minister John Prescott visited China in 2002 and 2003 respectively. Chinese Premier Zhu Rongji, NPC Chairman Li Peng, Vice-President Hu Jintao and other Chinese leaders visited Europe throughout 1998 to 2003. Beijing Review, "China-UK Relations Strengthened," *Beijing Review*, 20 November 2003, 6. Beijing Review, "Enhancing Dialogue," *Beijing Review*, 1 August 2002, 5. Beijing Review, "Sino-German Connection Stronger," *Beijing Review*, 1 August 2003, 6. Beijing Review, "Sino-German Relations," *Beijing Review*, 25 April 2002, 4. Beijing Review, "Ties with Britain and France Stressed," *Beijing Review*, April 20-26 1998, 4. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Ma Qingyan, "Sino-European Relations: Ties Take on a Fresh Look," *Beijing Review* 27 December (2001), 13-14. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 73-74, 79, 81. Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>81</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 72. There is an EU list reportedly comprised of a dozen names of Chinese prisoners the EU member states have concerns about. Each member state refers to this list in discussions with Chinese officials, rather than having a separate list for each state. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* See also Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>82</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 73. Select Committee on Foreign Affairs, *Tenth Report* (29 November 2000 [cited 4 March 2004]); available from <http://www.publications.parliament.uk/pa/cm199900/cmselect/cmcaff/574/57404.htm>.

<sup>83</sup> *Ibid.*

have since been two meetings each year of the UK-China human rights dialogue.<sup>84</sup> Mirroring concerns about the progress of the EU-China human rights dialogue, a UK government inquiry into the UK-China dialogue in 2000 concluded that the approach had 'not yet delivered meaningful results' given reports of increased human rights abuses in China, and recommended that the UK work with other EU states to bring about a draft resolution on China at the 2001 UNCHR session. Despite this finding, the UK government did not support a resolution on China at the 2001 UNCHR session.<sup>85</sup>

Other EU member states that have conducted human rights activities with China in addition to supporting the EU-China human rights dialogue include Sweden, Germany and Finland. Sweden and China have not established a formal human rights dialogue but the Swedish government was one of the first to commence a human rights legal cooperation programme with China, doing so in 1996.<sup>86</sup> In 1999 Germany began human rights dialogue meetings with China and has since conducted at least five further meetings, and Finland conducted a seminar on human rights in China.<sup>87</sup>

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<sup>84</sup> Tim Dunne and Nicholas J. Wheeler, "Blair's Britain: A Force for Good in the World?" in *Ethics and Foreign Policy*, ed. Margot Light and Karen E. Smith (2002), 167-84.

Free Tibet Campaign, Human Rights in China, and International Campaign for Tibet, "Behind Closed Doors: Bilateral Dialogues on Human Rights," p.28. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

<sup>85</sup> Similar results would have been likely for the UK-China technical cooperation programme as it has largely focused on training Chinese officials and academics in UK legal practice and training, although recently it has focused more on issues reflecting the concerns of Chinese officials.<sup>85</sup> However, the future of this technical cooperation programme is currently looking bleak since the main source of government funding is due to end in 2004. Select Committee on Foreign Affairs, *Tenth Report*. Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>86</sup> Despite the Swedish government being one of the few democratic states to continue to support the UNCHR resolution on China in 1997, the Chinese government continued the Sweden-China human rights legal cooperation programme. This is reportedly likely to have been because of the personal contacts made by several senior Chinese officials who had participated in human rights courses at the Swedish Raoul Wallenberg Institute of Human Rights and Humanitarian Law (RWI) in the early 1990s. Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 77. Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>87</sup> Free Tibet Campaign, Human Rights in China, and International Campaign for Tibet, "Behind Closed Doors: Bilateral Dialogues on Human Rights," p. 26. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*.

Norway, Switzerland and Hungary, none of which were EU members by the end of 2003, also participated in bilateral dialogues with China. Norway commenced its own human rights dialogue and technical cooperation programme with China in March 1997 at the time of its refusal to co-sponsor a resolution on China at the 1997 UNCHR session.<sup>88</sup> Switzerland commenced a human rights dialogue with China in 1991 and has since participated in seven dialogue discussion sessions as well as participated in a legal training exchange programme.<sup>89</sup> Hungary has been a more recent participant in the bilateral dialogue process with China, commencing meetings in 2000.<sup>90</sup>

Along with the EU and a number of other democratic states, Japan refused to co-sponsor a resolution on China at the 1997 UNCHR session and agreed to engage with China in a bilateral human rights dialogue. The first China-Japan dialogue meeting was held in October 1997, the second meeting in June 1998 and the third in January 2000.<sup>91</sup> The following year, however, the Japan-China relationship experienced a setback with Chinese outrage over the former Taiwanese President being allowed to visit Japan for medical treatment, the Japanese government's approval of school texts that underplayed Japan's brutality during World War Two, and Prime Minister Junichiro Koizumi's visit to a war shrine in Japan. In an attempt to restore the relationship, the Japanese Prime Minister apologised to China's 'victims of aggression' in October 2001.<sup>92</sup> Further human rights dialogues between China and Japan were agreed to but it was not until Japan's Foreign Minister Yoriko Kawaguchi visited China in September 2002 that a dialogue meeting was planned for later that

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<sup>88</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>89</sup> Sophia Woodman, email citing communication with Swiss government official 24 March 2004.

<sup>90</sup> Free Tibet Campaign, Human Rights in China, and International Campaign for Tibet, "Behind Closed Doors: Bilateral Dialogues on Human Rights," p. 28.

<sup>91</sup> As with most of these dialogue discussions, little is publicly known of the content or nature of these discussions, although it was reported that Japanese officials raised human rights concerns in a general sense with their Chinese counterparts rather than raising specific cases. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 102. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>92</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Yan Jun, "Lee Teng-Hui's Visit to Japan Causes Trouble," *Beijing Review* 10 May (2001), 8-10.

year. However, it is not clear whether this dialogue proceeded, and it appears that no dialogue meeting has since occurred between China and Japan.<sup>93</sup>

Following on from Canada's refusal to support a resolution on China at the 1997 UNCHR session, China and Canada significantly expanded their joint legal cooperation programme commenced in 1994 and began a human rights dialogue.<sup>94</sup> Annual dialogue meetings have since been held between Chinese and Canadian officials.<sup>95</sup> Canadian leaders also raised human rights issues with Chinese leaders during private talks usually dominated by trade concerns, for example, during trade discussions in February 2001 the Canadian Prime Minister Jean Chrétien raised concerns over repression in Tibet and against Falun Gong followers.<sup>96</sup>

As with Canada, Japan and the EU, Australia had ceased its support for resolutions on China at the UNCHR by 1997 and adopted the bilateral human rights dialogue approach. But not only had the Australian government made this decision relatively early (in late 1996), it became an active promoter of the approach to other previous co-sponsors of the UNCHR resolutions, reflecting the degree to which it was willing to adopt China's preferred mode of discussing human rights.<sup>97</sup>

### Australian Government Responses

In 1997 the Howard government adopted the bilateral human rights dialogue approach to communicate its human rights concerns to the Chinese government and ceased its support of resolutions on China at the UNCHR. The growing importance of trade with China and a number of sources of tension between China and Australia in the early to

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<sup>93</sup> See the website of the Japan Ministry of Foreign Affairs.  
<http://www.mofa.go.jp/policy/other/bluebook/2003/chap3-c.pdf> Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>94</sup> Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>95</sup> Free Tibet Campaign, Human Rights in China, and International Campaign for Tibet, "Behind Closed Doors: Bilateral Dialogues on Human Rights," p. 26.

<sup>96</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>97</sup> Human Rights in China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

mid 1990s encouraged the Howard government to adopt a more conciliatory approach on issues of contention such as human rights.<sup>98</sup> Annual private dialogue meetings between officials thus became the main forum within which the Australian government raised human rights concerns. In an attempt to give further credibility to Australia's change in policy, the Howard government offered to fund a development assistance programme for China focused on human rights.<sup>99</sup>

The first session of the Australia-China dialogue talks was conducted in August 1997 in China between Australian and Chinese officials.<sup>100</sup> Private comments from some of the Australian participants at the dialogue included that 'their dialogue was held at a "more senior level" than that of the Europeans, that it might presage some breakthrough on *laojiao* (re-education through labour) and that it had the advantage of establishing continuity.'<sup>101</sup> These comments came in the midst of much criticism of the dialogue process by NGOs, centring on the private nature of the talks and that only government officials were involved. In response to some of this criticism, in 1998 Australian officials persuaded their Chinese counterparts to agree to a formal meeting with Australian NGOs. However, the meeting was criticised by NGO participants for being too short and including constraints on the questions that could be addressed to the Chinese.<sup>102</sup>

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<sup>98</sup> Sources of tension included Prime Minister Howard and Foreign Minister Downer both meeting the Dalai Lama on his 1996 visit to Australia despite strong Chinese government objections, the Australian government's scrapping of the Concessional Finance Facility, the growing trade relationship between Australia and Taiwan, and Prime Minister Howard's promotion of a closer relationship between the US and Australia. W. Ross Johnston and Geoffrey Stokes, "Problems in Australian Foreign Policy: January - July 1997" *The Australian Journal of Politics and History* 43, no. 3 (1997), pp. 295-96. Colin Mackerras "Australia and China," in *Australian Foreign Policy: Into the New Millennium*, ed. Fedor A. Mediansky (Melbourne: MacMillan Education Australia, 1997), pp. 218, 221, 224.

<sup>99</sup> Official who has been involved in some of the Australia-China Human Rights Dialogue meetings, Interview, Canberra, 22 March 2002.

<sup>100</sup> Department of Foreign Affairs and Trade, *Australia-China Human Rights Dialogue - Basic Information* (23 December 1999 [cited 8 June 2000]); available from [http://www.dfat.gov.au/hr/aus\\_proc\\_dialogue.html](http://www.dfat.gov.au/hr/aus_proc_dialogue.html). Department of Foreign Affairs and Trade, *Human Rights and Indigenous Issues Newsletter No. 6* (Department of Foreign Affairs and Trade, January 1998 [cited 30 August 2001]); available from [http://www.dfat.gov.au/hr/hr\\_news/hr\\_vol06.html](http://www.dfat.gov.au/hr/hr_news/hr_vol06.html).

<sup>101</sup> Ann Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," *Human Rights Quarterly* 23, no. 3 (2001), p. 617.

<sup>102</sup> Ann Kent, "Form over Substance: The Australia-China Bilateral Human Rights Dialogue," *China Rights Forum*, no. Fall (1999), p. 33. Amnesty International Australia Government Liaison Group member.

The main outcome of the first round of dialogue talks was a Technical Assistance Programme (later renamed the Human Rights Technical Cooperation Programme - TCP) that aimed to strengthen the protection of human rights in China and to which the Australian government committed \$A300,000. Foreign Minister Downer outlined in August 1997 that the TCP was intended to 'address human rights matters in China in an open and constructive way' in order to 'achieve practical outcomes'.<sup>103</sup> The TCP would largely involve the design and implementation of training activities with officials of various Chinese government agencies. The small-scale programme intended to include activities that would immediately impact on specific organisations and human rights areas, and even though it was acknowledged that the programme would only ever have a modest impact, the intention was that it would have a long term impact on human rights in China.<sup>104</sup> In the face of NGO criticisms of the dialogue talks, and with its emphasis on achieving practical outcomes, the TCP became the centrepiece of the Australian government's human rights policy regarding China.

Dialogue meetings between Chinese and Australian government officials have continued on an annual basis since the first meeting in 1997. Each year the number of Chinese agencies represented at the dialogue meetings has increased, indicating at least a growing engagement with the dialogue process by Chinese agencies.<sup>105</sup> Australian representatives continue to be largely officials from government agencies but a number of Australian Members of Parliament and one China and human rights expert have participated in various dialogue meetings.<sup>106</sup> Specific issues raised by

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<sup>103</sup> Department of Foreign Affairs and Trade, *Human Rights: Australia-China Human Rights Technical Assistance Program* (10 September 1999 [cited 8 June 2000]); available from <http://www.dfat.gov.au/hr/hrta.html>.

<sup>104</sup> Human Rights and Equal Opportunity Commission, "China-Australia Human Rights Technical Cooperation Program: Background Paper," (Sydney: 2001), p. 1.

<sup>105</sup> Amnesty International Australia Government Liaison Group member. By 2001 representatives of Chinese agencies other than just the Ministry of Foreign Affairs were participating in the dialogue talks when they were held in China. Department of Foreign Affairs and Trade, *Australia-China Human Rights Dialogue - Basic Information December 2003* (6 January 2004 [cited 12 April 2004]); available from [http://www.dfat.gov.au/hr/achrd/aus\\_proc\\_dialogue.html](http://www.dfat.gov.au/hr/achrd/aus_proc_dialogue.html).

<sup>106</sup> *Ibid.*

Australian delegates in the dialogue talks have covered a wide range of human rights concerns, including included legal reform, ethnic and religious minority rights, women and children's rights, torture and arbitrary detention reports including those of Falun Gong and China Democracy Party members, members of non-official workers' groups and churches, infanticide and abortion, poverty elimination, the death penalty, the reform and re-education through labour systems, China's ongoing negotiations with ICRC, and China's accession to the major UN human rights conventions.<sup>107</sup> From the second round of talks, the dialogue also included visits to Australian and Chinese agencies with responsibilities for human rights, including NGOs in Australia, by the visiting delegation.<sup>108</sup> By the 2000 dialogue talks, the Chinese delegations were beginning to ask questions about Australia's human rights record for the first time.<sup>109</sup> The most sensitive and potentially contentious part of the dialogue meetings has been the raising of individual cases of reported human rights abuses with the Chinese delegation. This has largely involved an Australian delegate handing a list of individuals the Australian government is concerned about to a Chinese delegate. Thus this expression of concern is not able to be discussed even in private talks between officials and the Australian delegations have generally received very little feedback on the welfare of these individuals.<sup>110</sup> Consistent with the Chinese government preference for privacy in human rights discussions, the details of these meetings have

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<sup>107</sup> Amnesty International Australia Government Liaison Group member, Interview, Canberra, 16 August 2001. David Lague, "Report on Downer and Falun Gong Harassment in Australia," *Sydney Morning Herald*, 18 August 2000. Peter Nugent MP, "Report of the Parliamentary Representative on the Australian Delegation to the Third Round Australia-China Bilateral Human Rights Dialogue," (Canberra: 1999), p. 4. Department of Foreign Affairs and Trade, *Australia-China Human Rights Dialogue - Basic Information December 2003*.

<sup>108</sup> Department of Foreign Affairs and Trade, *Human Rights: Australia-China Human Rights Technical Assistance Program*. Nugent MP, "Report of the Parliamentary Representative on the Australian Delegation to the Third Round Australia-China Bilateral Human Rights Dialogue," p. 3.

<sup>109</sup> In 2000 these included questions on Aboriginal rights, women in the workforce, and Australia's 'refutation of a UN Committee on the Elimination of Racial Discrimination (CERD) report on Australia's treatment of indigenous Australians.' Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," p. 617.

<sup>110</sup> Department of Foreign Affairs and Trade Officials, Interview, Canberra, 14 August 2001. Exceptions to this appear to have been during the 1998 and 2002 dialogue talks. According to Foreign Minister Downer, during the 1998 talks Chinese officials gave information on all but one of the cases included on a list of prisoners handed to Chinese officials during the first dialogue talks in 1997. The Department of Foreign Affairs and Trade reported that during the 2002 talks Chinese officials gave information on 23 out of 25 individual cases raised by the Australian government over the preceding year. Amnesty International Australia Government Liaison Group member. Department of Foreign Affairs and Trade, *Australia-China Human Rights Dialogue - Basic Information December 2003*.



remained largely confidential. Therefore, little is known about the nature of the discussions between officials at these meetings and what outcomes, if any, result from the dialogue process.

What is known is that the most cooperative part of the annual dialogue meetings has been the discussions on the progress of the TCP. At each dialogue meeting Australian and Chinese officials approved the progress that had been made by the TCP and agreed to its gradual expansion. By 1999 the TCP began to coordinate and deliver the current annual capacity of approximately twelve activities per year. By 2003-2004 Australian government funding for the TCP had risen to \$A1.4 million per year with plans to increase funding to \$1.6 million in 2004-2005.<sup>111</sup> The activities of the TCP have been designed and conducted in conjunction with the appropriate Chinese agencies and most are seminar or workshop forums that lead to more practical-based training. The 'open door' policy in China focusing on trade and attracting foreign investment has clearly highlighted the need for a legal system to be developed to support trade. With its emphasis on civil and political rights in the area of judicial and legal reform the TCP has thus been able to attract the support of most of its participating Chinese agencies.<sup>112</sup> Particular activities that have been conducted under the TCP have included publicity and training activities promoting women and children's rights; a seminar on the education and health rights of minority peoples; training programmes for relevant Chinese agencies' officials in rules of evidence and preparing the prosecution case; a civil society seminar in China on the role that government and NGOs can play in developing social policy; training in UN human rights reporting legal training on domestic violence; the design of a training program by Chinese judicial officials focused on Australian correctional procedures and the rights of vulnerable prisoners; training on police ethics and accountability; annual lectures delivered by senior Australian judges in Beijing; a workshop in China for

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<sup>111</sup> In 2002 the TCP Australian managers had recommended that funding be increased by a further \$1 million per year in order to satisfy the demand from some of the Chinese cooperating agencies for more comprehensive activities. Human Rights and Equal Opportunity Commission Official, Personal communication by email 5 July 2002. Email correspondence from Human Rights and Equal Opportunity Commission Official, 13 April 2004.

judges on writing reasoned judgements; and a three month course for nine Chinese officials from various agencies on the domestic application of international human rights law.<sup>113</sup>

At the beginning of the TCP, the prevalent view of Chinese officials was that their agencies did not have human rights issues that needed to be dealt with. According to Australian officials involved with the programme, this view has largely been replaced by an acknowledgement that there are administrative and judicial issues that need to be addressed and that Australia may be able to assist. These concerns do not tend to be couched in the language of human rights by the Chinese, and the TCP managers rarely use the human rights term in response, but a sensitivity to the use of the human rights term is thought to be decreasing.<sup>114</sup>

Another indication of support for the programme by Chinese agencies is that after initial suspicions that the Westerners were just going to be critical of them, most Chinese officials involved in the TCP progressed to being supportive of the programme. The Chinese cooperating agencies are also now contributing funds to the TCP and in some cases since early 2000 have provided more funds than the Australian government. By the end of 2001 there were more Chinese agencies wanting to participate in the TCP than the Australian programme could manage. The Australian managers considered that this was due to the Chinese agencies that had not been involved seeing those that had been were benefiting from it.<sup>115</sup> It could also mean, however, that there is a desire by other Chinese agencies to establish relationships with external bodies for networking purposes, not necessarily for the purpose of improving the human rights aspects of their operations. This notwithstanding, the TCP has at least developed to an extent where many of the Chinese officials involved are willingly engaging with human rights issues that their work directly impacts upon.

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<sup>112</sup> Legal and Human Rights Consultant to the Human Rights and Equal Opportunity Commission, Interview, Sydney, 28 March 2002.

<sup>113</sup> Department of Foreign Affairs and Trade, *Australia-China Human Rights Technical Cooperation Program* (6 January 2004 [cited 12 April 2004]); available from <http://www.dfat.gov.au/hr/achrd/hrta.html>.

<sup>114</sup> Human Rights and Equal Opportunity Commission Official, Interview, Sydney, 3 April 2002.

Other Australian government expressions of human rights concerns to Chinese officials over the 1997 to 2003 period include Australian embassy representations. In addition to the lists of individuals given to Chinese officials by Australian government representatives at the annual human rights dialogue talks, the Australian embassy has raised individual cases with Chinese officials about three or four times per year at least since 1997.<sup>116</sup> Very little feedback has been given to Australian officials by their Chinese counterparts about those individuals in return.<sup>117</sup> Foreign Minister Downer has not been known to raise concerns about specific individuals in meetings with Chinese leaders, only referring to human rights issues in broad terms. Prime Minister Howard is not likely to raise human rights concerns at all during his meetings with Chinese leaders, his discussion topics firmly reflecting the trade and economic priorities of his government.<sup>118</sup> Therefore the communication of Australian government concerns about specific Chinese individuals has been carried out by embassy officials or other government officials participating in the bilateral dialogue talks, largely in the form of handing over written expressions of concerns regarding the reported human rights abuses of particular individuals. This clearly reflects the Chinese government's preferred non-confrontational bilateral approach to raising human rights and the Australian government's desire to ensure human rights did not become a contentious issue in the deepening relationship.

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<sup>115</sup> Human Rights and Equal Opportunity Commission Officials, Interview, Sydney, 17 August 2001.

<sup>116</sup> Department of Foreign Affairs and Trade Officials.

<sup>117</sup> Department of Foreign Affairs and Trade Official, Interview, Canberra, 21 March 2002.

Department of Foreign Affairs and Trade Officials. Senate Hansard Question Number 1913 from Senator Vicki Bourne to the Minister representing the Minister for Foreign Affairs, 8 February 2000.

<sup>118</sup> Department of Foreign Affairs and Trade Official. It should not be surprising that the Australian government's approach to human rights in China since the late 1990s has placed more emphasis on private discussions than public statements. The Howard government itself has become increasingly sensitive to attention from the UN concerning its own human rights record regarding its treatment of Aboriginal and Torres Strait Islander population and asylum seekers. For example, the Australian government rejected criticisms from the UN Committee on the Rights of the Child in 1997, the UN Human Rights Committee in 1997 and the UN Committee on the Elimination of Racial Discrimination in 1999. Amnesty International, "News Release - Prime Minister's Disregard of Human Rights Obligations Shocks Amnesty International," (London: 2000). In September 2000 the Australian government refused the UN Working Group on Arbitrary Detention permission to visit its immigration detention centres. Amnesty International, *Amnesty International Report 2001*.

Evidence of the deepening relationship between China and Australia came in September 1999 when President Jiang Zemin visited Australia, the first visit by a Chinese head of state.<sup>119</sup> Prominent dissident Wei Jingsheng, who had been released in 1997 and exiled to the US after serving eighteen years in prison in China, was also in Australia at the same time and provided a focal point for NGO-organised demonstrations regarding human rights abuses in China.<sup>120</sup> Despite these protests, the visit proceeded smoothly and outcomes of the visit included that annual bilateral meetings between the Australian Prime Minister and the Chinese President or Premier should take place, as well as annual meetings between the Foreign Ministers. In addition to President Jiang's visit to Australia, the Australian Ministers for Trade, Defence, Justice, Education, Immigration and Social Security, the Attorney-General and the Foreign Minister also visited China in 1999, the latter to conclude a WTO agreement with China, showing Australia's support for China's early accession to the WTO and another indication of a new level of cooperation between China and Australia.<sup>121</sup>

By 2002 the Australian government was making further concessions on human rights issues to the Chinese government in order to promote the cooperative relationship. In response to Chinese Foreign Minister Tang Jiaxuan's request during his 2002 visit to Australia that the Australian government decline to receive the Dalai Lama in his upcoming visit, Prime Minister Howard and Foreign Minister Downer did refuse to meet the religious leader, although several senior DFAT officials did. This was in contrast to the Prime Minister's willingness to meet with the Dalai Lama in 1996. This was also in contrast to Foreign Minister Downer meeting with the CCP Secretary in Tibet Guo Jinlong during his unofficial visit to Australia the same year, although Downer did take the opportunity to raise concerns about human rights in Tibet and that

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<sup>119</sup> Alexander Downer, "Australia and China - Partners for Progress," (Sydney: Speech at the 1999 China Oration of the Australia-China Business Council, 25 November, 1999).

<sup>120</sup> Lynne O'Donnell, "Dissident Challenges Leader to Open Debate," *The Australian*, 7 September 1999, 7.

<sup>121</sup> Beijing Review, "WTO Agreement Signed between China and Australia," 2 August 1999, 7. Downer, "Australia and China - Partners for Progress".

his government wished to extend the Australia-China TCP into Tibet.<sup>122</sup> In 2002 Chinese Foreign Minister Tang had also encouraged the Australian government to prevent Falun Gong followers practicing in Australia. The Australian government declined this request but did prevent followers from protesting outside the Chinese embassy during the Foreign Minister's visit.<sup>123</sup> These concessions to the Chinese government were undoubtedly reflecting the support the Australian government was giving to a lucrative liquified natural gas (LNG) bid by an Australian consortium that was about to be awarded.<sup>124</sup> Prime Minister Howard visited China in May and met with President Jiang and other Chinese officials, largely to support the LNG bid. The Chinese government subsequently awarded the contract to the Australian consortium, worth approximately \$A25 billion.<sup>125</sup>

By the end of 2003 the Australia-China trade and economic relationship had further increased in importance to both the Australian and Chinese governments. During Chinese President Hu Jintao's visit to Australia in October 2003 for trade discussions, a letter of intent was signed by the Chinese and Australian leaders for another lucrative gas agreement building upon the 2002 deal. This meant that Australia would be the biggest provider of gas to China. Since 1996 trade between the two countries has tripled. By the end of 2003 China was Australia's third largest trade partner and, according to Australian officials, in five years could become the second largest, replacing Japan.<sup>126</sup> Australia was also an early supporter of China's desire to become a member of the WTO, reflecting Australia's belief that this membership would reduce trade restrictions that inhibit Australian companies' access to Chinese markets.<sup>127</sup> The strength of the economic and trade relationship between the two

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<sup>122</sup> Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>123</sup> Craig Skehan, "Visiting Chinese Minister Lashes 'Evil' Falun Gong," *Sydney Morning Herald*, 20 March 2002, 7.

<sup>124</sup> Karen Middleton, "Ties Lead PM's Trip to China," *The West Australian*, 18 May 2002, 56.

<sup>125</sup> Nigel Wilson and Belinda Hickman, "China Buys \$25bn of Our Gas," *The Australian*, 9 August 2002, 1.

<sup>126</sup> Jane Perlez, *A Visitor from China Eclipses Bush's Stop to Australia* (New York Times, 25 October 2003 [cited 27 October 2003]); available from <http://www.nytimes.com/2003/10/25/international/asia/25AUST.html?ex=1068165773&ei>.

<sup>127</sup> Department of Foreign Affairs and Trade, "Australia's Relations with the People's Republic of China," (Supplementary Submission to the Inquiry by the Senate Committee on Foreign Affairs, Defence and Trade, Parliament of the Commonwealth of Australia, March 1995, Official Hansard

countries looks set to continue. Thus human rights is likely to remain a relatively small and compartmentalised part of Australian foreign policy regarding China with the private meetings of the annual dialogue talks between officials and the small-scale activities of the TCP being the main forums for expressing concerns.

### UN Responses

As outlined in the previous section, the 1997 session of the UNCHR saw the cessation of the united front of democratic states in supporting a resolution on China. The EU, Australia, Canada and Japan all declined to sponsor a resolution, leaving Denmark as sponsor of the resolution and Sweden, the UK, the Netherlands, Austria, Ireland, Portugal and Luxembourg agreeing to co-sponsor it. The US also provided its support to the resolution process. However, as in all but one of the previous UNCHR sessions, China's subsequent no-action motion was passed and this time with the largest majority it had ever attracted.<sup>128</sup>

Following on from the Working Group on Arbitrary Detention's 1997 visit to China, the Chinese government's acceptance of a planned visit from the UN High Commissioner for Human Rights, the agreed outcomes of the US-China summit, China signing the ICESCR and expressing its willingness to sign the ICCPR, the beginnings of human rights dialogues between China and the EU, and the release of Wei Jingsheng, by early 1998 it was clear that there would be no support for a draft resolution at the UNCHR that year.<sup>129</sup> In contrast, the US government once again sponsored a resolution on China at the 1999 UNCHR session, this time with support from Poland. However, the lack of support from the other democratic states

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Report, 26 June, 1995), p. 1896. Department of Foreign Affairs and Trade, *People's Republic of China: World Trade Organisation (WTO) - China's Accession* (2000 [cited 8 June 2000]); available from <http://www.dfat.gov.au/geo/china/wto.html>.

<sup>128</sup> The no-action passed 27 votes in favour, 17 against and 9 abstentions. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Kent, China, the United Nations, and Human Rights: *The Limits of Compliance*, p. 77.

<sup>129</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Kent, China, the United Nations, and Human Rights: *The Limits of Compliance*, p. 77.

highlighted that this did not signify a return to the pressure this multilateral forum was able to place on China earlier in the 1990s. This was further evident in 2000 and 2001 when the US-sponsored resolutions on China at the UNCHR failed again to attract the support of other democratic states and in 1999, 2000 and 2001 China's no-action motions were all passed by a reasonable margin.<sup>130</sup> With the US no longer having a seat on the UNCHR in 2002, and again no support from other democratic states to sponsor a resolution on China, there was no draft resolution on China's human rights record that year.<sup>131</sup> Despite heavy lobbying by NGOs, neither was a resolution on China sponsored at the Commission in 2003.<sup>132</sup>

It is clear that by the late 1990s the potential for the UNCHR to be used as a means to publicly censure China over its human rights record had been hampered by the Chinese government's continued lobbying against the process, and the subsequent persuasion of most democratic states to cease their support for a resolution on China. As discussed in Chapter Five, throughout the 1990s the UNCHR's Sub-Commission was also hampered in its ability to name and shame the Chinese government by some vigorous Chinese lobbying.<sup>133</sup> In 2000 the Sub-Commission's ability to focus on the human rights abuses of particular governments was further curtailed when the Chairman of the UNCHR ruled that 'the Sub-Commission should not adopt country-specific resolutions'.<sup>134</sup> However, other UN human rights bodies independent of the

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<sup>130</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 60, 123. In 1999 the no-action motion passed 22 votes in favour, with 17 votes against and 14 abstentions. In 2000, the voting was 22 votes in favour, 18 votes against, 12 abstentions and one delegation absent, and in 2001 it was 23 votes in favour, 17 against, 12 abstentions and one absence. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>131</sup> Amnesty International, *Amnesty International Report 2003*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>132</sup> Human Rights in China, "News Update Late March-May 2003".

<sup>133</sup> The Sub-Commission ceased to discuss country specific situations that were being dealt with by the UNCHR in 1993 after Chinese lobbying, and in 1997 a resolution promoting constructive dialogue as the means for discussing human rights was introduced by a Chinese delegate and passed by the Sub-Commission. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 74-75.

<sup>134</sup> Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," footnote 3, p. 624.

more political UNCHR were able to continue to pressure China to improve its human rights record during the 1997 to 2003 period.

As has been mentioned, the Chinese government's acceptance of a visit by the UN Working Group on Arbitrary Detention was taken as an important concession by the democratic states and contributed to a lack of support for a resolution at the 1998 UNCHR session. During the October 1997 visit Working Group representatives were able to interview a number of prisoners chosen at random and without Chinese officials present, even in a Tibetan prison.<sup>135</sup> However, despite this positive development in China's engagement with UN human rights bodies, compromises were made by the Working Group for the visit to proceed. One year prior to the visit, during the period of consultation with the Chinese government over the nature and extent of the visit, the Working Group decided to delay investigating a number of non-urgent Chinese cases that had been presented to it in an apparent attempt to encourage the visit to proceed. This attracted criticism from some NGOs that the Working Group's decision was yet another example of a UN body altering its practices in response to the Chinese government.<sup>136</sup> Despite the compromising start, the report of the Working Group's visit highlighted concerns including that the revised Criminal Law had replaced "counterrevolutionary crimes" with crimes "endangering national security" and was thus still open to interpretation and misuse, and did not include an expression of the presumption of innocence. More controversially, the Working Group concluded that the re-education through labour system was not arbitrary for people prosecuted under the common law as this was considered to be an acceptable practice in Chinese society, although it was considered to be arbitrary for people convicted under the criminal law.<sup>137</sup> The Working Group continued to focus on China

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<sup>135</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 215-17. US Department of State, *China Country Report on Human Rights Practices for 1997* (1998 [cited 29 September 2003]); available from [http://www.state.gov/www/global/human\\_rights/1997\\_hrp\\_report/china.html](http://www.state.gov/www/global/human_rights/1997_hrp_report/china.html).

<sup>136</sup> Human Rights in China was particularly concerned about this development. See Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* Changes to the Working Group's mandate in April 1997 also reflected the lobbying of Chinese officials. See *UN Responses* in Chapter Five.

<sup>137</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 215-17.



at various times throughout 1997 to 2003, including urgently requesting the Chinese government to look into the cases of detained CDP members in 1998,<sup>138</sup> and calling for the release in 2003 of two US-based Chinese activists who had been detained while visiting China.<sup>139</sup>

Another concession contributing to no resolution on China being sponsored at the 1998 UNCHR session had been the Chinese government's acceptance of a visit by the UN High Commissioner for Human Rights Mary Robinson. The visit proceeded in September 1998 and was notable for the High Commissioner's acceptance of one of the Chinese government's preferred modes of engagement on human rights, the technical cooperation programme.<sup>140</sup> Agreement was made between the Chinese government and the High Commissioner to commence such a programme. However, this did not preclude the High Commissioner from raising human rights issues with the Chinese President during her visit, including arbitrary detentions, the use of torture and religious intolerance in China. One positive outcome of the visit was the Chinese government's commitment to signing the ICCPR the following month, a concession also promised to the US government and other democratic states leading up to the 1998 UNCHR session, while more negative outcomes were the detention of a number of well-known dissidents during the visit and the refusal of the Chinese government to allow the High Commissioner to meet with the Panchen Lama recognised by the Dalai Lama. The High Commissioner was also criticised by NGOs for her refusal to meet with Chinese dissidents independently of her official schedule.<sup>141</sup> At the end of that year, in response to reports of the repressive actions of the Chinese government against members of the CDP, the High Commissioner publicly expressed her concerns that the members should receive fair trials and that the rights to freedom of expression and association should be respected.<sup>142</sup>

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<sup>138</sup> Ibid. footnote 30, p. 235.

<sup>139</sup> Human Rights in China, "News Update Late May-August 2003," p. 8.

<sup>140</sup> Mary Robinson, "Human Rights Today: Fifty Years after the Universal Declaration," *World Affairs* 2, no. 4 (1998), p. 16.

<sup>141</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 217. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 197-98.

<sup>142</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, footnote 30, p. 235.

Perhaps in response to the High Commissioner continuing to raise her concerns about human rights in China, the Chinese government stalled further progress on the technical cooperation programme. The next phase required visits to China by expert advisors, discussions and agreements on particular projects, and a signed understanding that these projects would proceed. A Needs Assessment Mission was finally allowed to visit China just prior to the March 1999 UNCHR session.<sup>143</sup> But it was not until November 2000 that the High Commissioner signed a Memorandum of Understanding with the Chinese government outlining the emphasis of the programme, with training in the areas of human rights education, police, minor crimes and administrative detention being agreed upon as the initial focus.<sup>144</sup>

There were other instances where the UN High Commissioner engaged with the Chinese government over human rights concerns from 1998 to 2003, and in some cases this included public criticism of the government's human rights record. In March 2000 the High Commissioner's office conducted an Asia-Pacific regional workshop on human rights in Beijing and during her press conference the High Commissioner criticised the deteriorating human rights practices in China.<sup>145</sup> The High Commissioner participated in two human rights workshops in Beijing in 2001 and held discussions with President Jiang Zemin, asking for the UN Special Rapporteur on Torture to be invited to China and highlighting that the war on terrorism should not be used as an excuse to use repressive measures in Xinjiang.<sup>146</sup> The High Commissioner was again in Beijing in August 2002 to open a UN judicial independence workshop and highlighted that China's judicial system was still not up to international human rights standards. She also raised the cases of a number of detained individuals, including labour leaders, and that she was still particularly

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<sup>143</sup> Ibid. pp. 238-39. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*.

<sup>144</sup> Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. China: Technical Cooperation with the UN Is Not Enough," (ASA 17/042/2000 220/00: 20 November, 2000). Human Rights In China, "Funding the Rule of Law and Civil Society". United States General Accounting Office, "Foreign Assistance: U.S. Funding for Democracy-Related Programs (China)".

<sup>145</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>146</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

concerned about the repression of Tibetans and Uighur Muslims by the use of anti-terrorism laws.<sup>147</sup>

Various other UN human rights bodies also focused on China throughout the 1997 to 2003 period. In June 1998 the ILO published the concerns of the ICFTU regarding the continued detention and torture of members of non-official workers' organisations in China and requested that the Chinese government investigate the allegations of the use of torture and release the trade union detainees.<sup>148</sup> In June 2000 the ILO highlighted that China's Trade Union Act was not consistent with ILO principles of freedom of association, called for a number of trade union leaders detained by the Chinese government to be released, and requested that an ILO mission to China be accepted by the government.<sup>149</sup> The UN Committee reporting on China's compliance with the Convention to Eliminate Discrimination Against Women recommended in February 1999 that the Chinese government allow the Special Rapporteur on Violence Against Women to visit and investigate issues such as domestic violence, abuse in detention and China's population control programme.<sup>150</sup> The UN Committee Against Torture assessed the Chinese government's compliance with the treaty on torture and ill-treatment in May 2000 and concluded that even though there had been some improvements in government reporting of torture claims and some efforts to prosecute officials found guilty of using torture, measures to prevent the use of torture still needed to be implemented.<sup>151</sup> In response to China's report on its implementation of the Convention on the Elimination of Racial Discrimination, in August 2001 the UN Committee on the Elimination of Racial Discrimination recommended to the Chinese government it review legislative practices that may hinder minorities in exercising their right to freedom of religion, and respect the economic, social and cultural rights of minorities.<sup>152</sup>

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<sup>147</sup> Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>148</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 118, 135-36.

<sup>149</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>150</sup> Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*.

<sup>151</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>152</sup> Amnesty International, *Amnesty International Report 2002*.

Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. The UN Special Rapporteur on Torture also continued to try to persuade the Chinese government to accept a visit based

With the declining ability of the UNCHR and its Sub-Commission to publicly criticise the human rights practices of the Chinese government over the 1997 to 2003 period, it was left to other UN human rights bodies to place pressure on China, in particular the Working Group on Arbitrary Detention and the UN High Commissioner for Human Rights. Despite the compromises made by the Working Group to bring about its 1997 visit, the visit did highlight some of the abuses in China and the Group raised concerns on a number of other occasions later in the 1997 to 2003 period. The UN High Commissioner was particularly active in highlighting abuses in China over this period, publicly and privately raising concerns with the Chinese government as well as commencing one of China's preferred approaches to human rights, the technical cooperation programme. It was clear by 2003 that these UN bodies were not deterred from making public their concerns about human rights in China, in contrast to the more political UNCHR that had proven to be impotent in 2002 and 2003 in the face of the Chinese government's opposition to its actions.<sup>153</sup>

### **The Chinese Government's Tactical Concessions and Other Responses to the Transnational Human Rights Network**

In response to the adoption of the bilateral human rights dialogue process by some of the democratic states and their refusal to support a resolution on China at the UNCHR, and to encourage other democratic states to do the same, the Chinese government offered various tactical concessions in the 1997 to 2003 time period. Other responses to its external and internal critics included continuing to promote its particular interpretations of international human rights norms, criticising the human rights record

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on the Special Rapporteur's terms in 2000 but to no avail. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*

<sup>153</sup> However, the US government once again sponsored a resolution on China at the 2004 UNCHR session, followed by the Chinese government announcing that the US-China bilateral human rights dialogue would again be suspended. Patrick Goodenough, *Us to Target Chinese Rights Abuses Again* (23 March) (CNSNews.com, 2004 [cited 23 March 2004]); available from <http://www.cnsnews.com/ViewForeignBureaus.asp?Page=%5CForeignBureau%5Carchive%5C200403%5CFOR20040323a.html>.

of the US government, releasing a number of high profile political prisoners, making some attempts to deal with growing corruption, promoting the need for the rule of law, and first allowing for a greater internal political debate and then repressing it. In addition to this repression, there were other reports of abuses of the two core rights within China throughout the 1997 to 2003 period.

In the aftermath of the 1997 UNCHR session, the Chinese government began to give concessions to the democratic states that had ceased to support a resolution on China. These were not only concessions in the form of signing the ICESCR that year, consideration for doing the same with the ICCPR the following year, resuming discussions with the ICRC<sup>154</sup> and accepting a visit from the UN High Commissioner for Human Rights. They were also concessions in the form of bilateral engagement activities that would provide these democratic states with something to show their domestic constituencies they were still concerned about human rights in China. For example, later in 1997 the Chinese government resumed or began dialogues with the EU, Norway, Canada, Brazil, Australia and Japan, and a parliamentary delegation from Germany was allowed to visit Tibetan detention centres and monasteries.<sup>155</sup> The Chinese government also began a human rights dialogue with the UK government in late 1997, despite the latter's support for the resolution on China at the 1997 UNCHR session.<sup>156</sup> In contrast, the lead sponsors of the resolution, Denmark and the Netherlands, were soundly criticised by the Chinese government for their actions.<sup>157</sup> Some of the democratic states commenced technical cooperation programmes in addition to bilateral dialogue meetings, and private foundations began to increasingly fund similar programmes in China as well.<sup>158</sup>

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<sup>154</sup> Following on from their June 1997 meeting, the Chinese government met again with members of the ICRC in February 1998. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 217.

<sup>155</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 80. US Department of State, *China Country Report on Human Rights Practices for 1997*.

<sup>156</sup> This reflected both governments' desire to develop a more cooperative relationship in the aftermath of the smooth transfer of Hong Kong to Chinese rule in mid 1997. Select Committee on Foreign Affairs, *Tenth Report*.

<sup>157</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 205.

<sup>158</sup> Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?*

Other Chinese government efforts to silence international criticism of its human rights record in 1997 included restricting the activities of two international human rights NGOs, HRIC and the Hong Kong Human Rights Monitor, by preventing them from attending the World Bank meeting in Hong Kong.<sup>159</sup> In addition, despite accepting the visit by the UN Working Group on Arbitrary Detention in October 1997, the Chinese government hampered the efforts of the Working Group to plan and carry out its visit. For example, the Chinese government would not provide the Working Group with English or French translations of revised criminal laws, some local Chinese authorities would not cooperate with the visit, and the Chinese government delayed its permission for the Group to visit particular places of detention.<sup>160</sup>

Towards the end of 1997 the Chinese government was focused on ensuring a successful US visit for President Jiang Zemin in October. To facilitate this success, and in response to a lack of support for the 1997 UNCHR resolution on China by EU member states France, Germany, Spain and Italy, the Chinese government chose to announce it would be signing the ICESCR just prior to the visit. Amongst a busy agenda, human rights concerns were raised with the Chinese President by US President Clinton and Congress members. President Jiang's responses to these concerns included the claim that economic and social rights were the priority in China, the seemingly contradictory claim that economic, social and cultural rights and civil and political rights were indivisible, and that the US itself was yet to accede to the ICESCR. The Chinese President also pointed out that each country's specific situation would have a major influence on its human rights. Reflecting the new emphasis on bilateral dialogue and cooperation between China and many democratic states, the US-China summit concluded with China agreeing to accept legal training and materials

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Human Rights In China, "Funding the Rule of Law and Civil Society,". The Chinese government also resumed its bilateral dialogue with the US in January 1999, although it was suspended again in the wake of the NATO bombing of the Chinese embassy in Belgrade in May 1999 and not resumed again until late 2001. See *US Government Responses* for more detail.

<sup>159</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

<sup>160</sup> For some reason, the Working Group did not attempt to get hold of one of the relatively easily obtainable translations of the revised criminal laws prior to the visit. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 198.

from the US. The Chinese President also offered the concession of a visit to China, including Tibet, by three US religious leaders and several weeks after the summit Wei Jingsheng was released and exiled to the US.<sup>161</sup>

Coupled with the concession of the US religious leaders' visit, the Chinese government released a White Paper on freedom of religion in China in October 1997. The Paper claimed that freedom of religious belief was accorded legal protection in China, consistent with international covenants and declarations. However, it also stressed that this freedom should be exercised within the law and that no one in China was arrested for their religious belief, only for undertaking illegal activities using religion as a cover. As in previous White Papers, there was a discussion on the abuses perpetrated by colonial rulers in China's past and a brief mention that a government's internal matters should not be interfered with by external bodies 'under the pretext of religion'.<sup>162</sup>

Internally the Chinese government found itself having to reassess how it could promote its political legitimacy in the face of the negative impact of the Asian economic crisis beginning in 1997, and its own economic reform programme.<sup>163</sup> After the Tiananmen Square massacre the government had focused on gaining its legitimacy through economic reforms, but with the declining performance of the Chinese economy this was looking to be a strategy that may not be viable for much longer. With millions facing unemployment due to the decision to close all state-owned enterprises and the subsequent 'possibility of widespread social unrest in China'<sup>164</sup>, by 1997 the Chinese government was allowing greater expression of political views and

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<sup>161</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp. 211-13. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

<sup>162</sup> Information Office of the State Council of the People's Republic of China, *Freedom of Religious Belief in China* (October 1997 [cited 29 March 2004]); available from <http://english.peopledaily.com.cn/whitepaper/18.html>.

<sup>163</sup> China was relatively protected from the Asian economic crisis 'due to its enormous foreign trade surplus, massive reserves, and relative insulation from global financial markets.' However, its economy still experienced a downturn that exacerbated the weaknesses of its banking system and put a further strain on state enterprises that were failing to compete with private competitors. Ming Wan *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 36-37

<sup>164</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 202

public debate and the rule of law was being promoted.<sup>165</sup> These measures were likely to have been aimed not only at increasing the political legitimacy of CCP rule to a domestic audience, but also at China's investment partners that had been calling for a legal system that would offer their investment interests some protection,<sup>166</sup> and to generate 'international goodwill in advance of planned visits by US President Bill Clinton in June 1998 and the UN High Commissioner for Human Rights Mary Robinson in September 1998'.<sup>167</sup>

Consistent with its increased emphasis on the rule of law, in October 1997 the Chinese government established the Criminal Law ostensibly to establish that only acts explicitly stated as crimes could be considered crimes. However, offsetting this positive development was the establishment of other legislation labelling a number of activities as crimes that had previously been considered to be disciplinary offences. The Criminal Law also replaced the widely-criticised category of "counterrevolutionary crimes" with "crimes endangering state security" that included no definitions as to what may constitute such crimes. In addition, the cases of those who had already been convicted of "counterrevolutionary crimes" were not reviewed. Clearly the Chinese government was ensuring that it had a legal system that would support its actions of denouncing and arresting anyone suspected of being a challenge to its rule. These were therefore attempts at setting up a rule by law rather than the rule of law in China.<sup>168</sup>

More positive developments within China in late 1997 and early 1998 included publications detailing the use of torture by police in an effort to improve the respect

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<sup>165</sup> Jan van der Made, *The Rise and Fall of the China Democracy Party* (Winter) (China Rights Forum, 2000 [cited 31 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=413&subcategory\\_id=12](http://iso.hrichina.org/iso/article.adp?article_id=413&subcategory_id=12).

President Jiang promoted the need for China to adopt the rule of law at the 15<sup>th</sup> Party Congress in September 1997. Ibid. p. 202.

<sup>166</sup> Legal and Human Rights Consultant to the Human Rights and Equal Opportunity Commission.

<sup>167</sup> Jan van der Made, *The Rise and Fall of the China Democracy Party*.

<sup>168</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 209-10.



for the human rights of those in police custody.<sup>169</sup> According to Chinese officials, procuratorates investigated 300 to 400 incidences of torture and ill-treatment in the first half of 1997 alone<sup>170</sup> and in 1997 the Ministry of Public Security announced that inspectors should be established in the country's police force to investigate the use of torture and ill-treatment.<sup>171</sup> In addition some expressions of democratic rights were found in the March 1998 National People's Congress, including '10 per cent of delegates voting against or abstaining in the election of former Premier Li Peng as Chair of the NPC' and the Procurator-General only attracting 65 percent of support for his nomination.<sup>172</sup> Further promotion of democratic rights was evident in 1998 with legislation introduced that stipulated all villages in China needed to hold elections to choose their chiefs and committees.<sup>173</sup>

In early 1998 the Chinese government was again publishing its views on human rights in China in response to its external critics. In response to the US Department of State's 1997 human rights report on China, the Chinese government-sponsored China Society for Human Rights Studies disputed the facts of the report<sup>174</sup>, promoted the Chinese government's human rights priorities and highlighted the human rights abuses of the US government. The US report was also accused of supporting those in China

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<sup>169</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 227.

<sup>170</sup> AI, however, considered that there were many more cases of the use of torture than the figures reported by these officials. Amnesty International, *Amnesty International Report 1998: China*.

<sup>171</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. However, it was clear that this had not occurred to any significant degree by 2002 when a senior Public Security Ministry official acknowledged that the use of torture continued to be a concern and that greater action was needed to combat its use. Amnesty International, *Amnesty International Report 2003*.

<sup>172</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 227.

<sup>173</sup> This followed eleven years of experimentation in democratic elections in various villages. The Ministry of Civil Affairs stipulated that villagers needed to directly elect the village chairman, vice-chairman and committee members, the number of candidates should be more than the number of positions, secret ballots should be used, winners should receive more than fifty percent of votes, and voting should take place every three years. Anne F. Thurston, *Rural Rule and Village Elections* (China Rights Forum, Winter 2000 [cited 21 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=421&subcategory\\_id=9](http://iso.hrichina.org/iso/article.adp?article_id=421&subcategory_id=9). See also Beijing Review, "Improving Villagers Autonomy System," 19-25 October 1998, 17-18.

<sup>174</sup> For example, the detention of demonstrators in Tiananmen Square at the time of the 15<sup>th</sup> Party Congress in 1997 was denied on the grounds that demonstrators had not been present in the square at the time of the Congress and so none could have been detained as claimed by the US report. Beijing Review, "China Issues Commentary on US Human Rights Report," 23-29 March 1998, 11-16.

who would seek to overthrow the Chinese government and hamper the country's development. In addition, the rights to subsistence and development were once again highlighted as human rights priorities, as well as the necessity for stability to be able to realise these rights.<sup>175</sup>

In response to the continuing international criticism of its practices in Tibet, in February 1998 the Chinese government published another White Paper on human rights in Tibet. The White Paper reiterated the Chinese government's previous statements on Tibet – that the region had been a part of Chinese territory since the thirteenth century and the Chinese government's "liberation" of the region in 1953 had brought an end to the people's suffering under the dictatorship of the clergy and nobility – as well as the progress made on human rights in the region since the last White Paper on Tibet in 1992.<sup>176</sup> The Chinese government published a further two White Papers on Tibet, as well as reports and articles, over the 1997 to 2003 period reiterating the improvements in human rights practices in Tibet since the Chinese "liberation" in further attempts to counter international criticisms based on reports of human rights abuses in Tibet.<sup>177</sup>

In the lead-up to the 1998 UNCHR session, and in its aftermath, the Chinese government promised and delivered further concessions to persuade democratic states to not support a resolution on its human rights record. Just prior to the US stating its intention to not sponsor a resolution at the 1998 UNCHR session, the Chinese

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<sup>175</sup> Ibid.

<sup>176</sup> This progress included that most officials and members of the judiciary in Tibet were ethnic Tibetans, the economic well-being of Tibetans had increased, Tibetans were free to study and use their own language, prisoners were well cared for, access to education and healthcare had increased, and religious freedoms 'in accordance with the law' were respected, including that nuns, monks and other Tibetans were able to study and practice Buddhism. Information Office of the State Council of the People's Republic of China, "New Progress in Human Rights in the Tibet Autonomous Region," (Beijing: 1998), Quote on p. 25.

<sup>177</sup> For example, see China Society for Human Rights Studies, "Historical Progress in Guaranteeing Human Rights in Tibet - Celebrating the 40th Anniversary of the Democratic Reform in Tibet," *Beijing Review*, 16 August 1999, 19-27. Information Office of the State Council of the People's Republic of China, "The Development of Tibetan Culture," *Beijing Review* 3 July (2000), 16-27. Information Office of the State Council of the People's Republic of China, *Tibet's March Towards Modernization* (November 2001 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/20011108/index.htm>.

government promised to sign the ICCPR.<sup>178</sup> In the aftermath of the US refusal to sponsor the resolution, the Chinese government released another prominent political prisoner, Wang Dan, and exiled him to the US in April 1998.<sup>179</sup> In return for also refusing to sponsor a resolution on China at this session, the EU was able to send a delegation of legal experts to China that included a visit to a model Beijing prison.<sup>180</sup>

In June 1998 the Chinese government made a further concession by allowing for a discussion on human rights during the summit between Presidents Clinton and Jiang in China to be broadcast to a Chinese audience. Both President Clinton's speech to Beijing University students on human rights and a press conference between the Presidents were broadcast, the latter including a debate on the topics of human rights, the events in Tiananmen Square in June 1989 and Tibet. For the first time Chinese citizens could hear their President and a foreign President debate these issues, indicating that this was another positive development in the Chinese government's apparent trend towards more openness on human rights. It also reflected the Chinese government's appreciation of the warmer relationship between the US and China as signified by the presidential summits,<sup>181</sup> and therefore China was prepared to further engage with the US on human rights issues in acknowledgement of their closer relationship. A more negative outcome of the summit was the detention of several dissidents during the early stages of the visit, highlighting that human rights practices were still lagging behind the public rhetoric of the Chinese government.<sup>182</sup>

As promised to the US government and other democratic states that refused to sponsor a resolution on China at the 1998 UNCHR session, in October the Chinese government did sign the ICCPR. This was in the wake of the UN High Commissioner for Human Rights' visit to China and just prior to UK Prime Minister Blair's visit,

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<sup>178</sup> Foot, "Bush, China and Human Rights," p. 175.

<sup>179</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 57.

<sup>180</sup> *Ibid.* p. 80.

<sup>181</sup> Li Haibo, "History Has Brought Us Together," *Beijing Review* 20-26 July (1998), 7-10.

<sup>182</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 229. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 201.

giving these visits further credibility.<sup>183</sup> The same month China hosted a two day International Symposium on human rights on the occasion of the fiftieth anniversary of the UDHR, giving the Chinese government's tacit support for the Declaration. This was also a further attempt by the Chinese government to shape the international human rights discourse. Senior Chinese officials speaking at the Symposium reiterated the priority of the rights to subsistence and development, and that developed countries needed to act on their responsibilities to bring about the development of countries like China. Dialogues based on 'equality and mutual respect' were promoted as the best way to advance concerns for human rights as this process recognised that countries' differing historical, cultural, social and economic conditions influenced their understandings of 'how to define, approach and realise human rights'.<sup>184</sup> In addition, participation in the symposium was limited to government officials and human rights experts that were participating in dialogues with China, rather than NGOs and foreign academics.<sup>185</sup>

By the end of 1998 the limit to which the Chinese government would tolerate open expressions of opposition had been reached. The attempt to organise some of this opposition through the establishment of the CDP that year led to thirty members of the organisation being detained, limits being placed on social organisations, the closure of a number of newspapers and other editors forced to resign, and limitations placed on the use of the internet. President Jiang defended these actions by highlighting that China needed to ensure it maintained social and political stability and that the Western political system would not be adopted.<sup>186</sup> The unfair trials and lengthy sentences of

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<sup>183</sup> But at the time of signing China indicated that it would seek reservations in the areas of freedoms of association and movement and the death penalty. However, it should be noted that the US had also made reservations on its signing of the ICCPR, including one on the death penalty and therefore the US government was not likely to raise public objections to China's reservations. Ibid, pp. 196-97.

<sup>184</sup> Beijing Review, "Protecting Human Rights a Universal Ideal: Address Made by Chinese Vice-Premier Qian Qichen at the International Symposium on World Human Rights toward the 21st Century on October 20 1998," 16-22 November 1998, pp. 11-12.

<sup>185</sup> Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 199.

<sup>186</sup> Amnesty International, *Amnesty International Report 1999*. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 234. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*.

the three key members of the CDP indicated that the revised Criminal Law was not protecting the legal rights of the accused. The trials and sentences were also the subject of much international media attention.<sup>187</sup> The Chinese government's response to this attention was to again claim it had imprisoned these people because they had broken Chinese law and therefore their detention was not a human rights abuse. The state sovereignty principle was also once again invoked.<sup>188</sup>

The Chinese government's increased use of repression against organised expressions considered to be in opposition to it continued in 1999, despite the revision of the Chinese constitution in March to include that China 'shall be built into a socialist country based on the rule of law'.<sup>189</sup> Not taking any chances on the tenth anniversary of the Tiananmen Square massacre, the Chinese government closed the Square and arrested several political activists in June.<sup>190</sup> In response to the thousands of Falun Gong sect members who protested in Beijing over their organisation not being officially recognised, in April the Chinese government banned the sect and arrested some of its members. In October the law was changed to ban all cults<sup>191</sup> and in December four leaders of the sect were sentenced from seven to eighteen years.<sup>192</sup> The following years saw continued repressive measures taken against Falun Gong followers, including the detention, torture and ill-treatment of many and the deaths in custody of reportedly five hundred by the end of 2002.<sup>193</sup>

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<sup>187</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 235.

<sup>188</sup> Xu Wenli and other CDP members were accused of working with hostile overseas organisations and individuals, [accepting] overseas funds to engage in subversive activities against the Chinese government and [endangering] national security'. Ren Yanshi, "Protecting Human Rights Calls for Punishing Crimes," *Beijing Review* 11-17 January (1999), 12-13.

<sup>189</sup> Cited in Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 249.

<sup>190</sup> *Ibid.* p. 247.

<sup>191</sup> *Beijing Review*, "NPC Decision Bans All Heretical Cults," 8 November 1999, 4.

<sup>192</sup> The Falun Gong followers demonstrated around Zhongnanhai where the CCP headquarters is based. This was the largest demonstration in central Beijing since the Tiananmen Square demonstrations in 1989. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 246, including footnote 58. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 37.

<sup>193</sup> Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*.

1999 also saw the deterioration of the Sino-US relationship, beginning with the US government sponsoring a resolution on China at the UNCHR session in March. The Chinese government responded by giving a negative critique of the US human rights record in greater detail than any former critique.<sup>194</sup> Despite this, Premier Zhu Rongji visited the US in April for his first official visit and talks on China's wish to join the WTO<sup>195</sup>. Further negative reactions to the US came in 1999 in the wake of the US-led NATO military intervention in Kosovo that had bypassed the UN Security Council. The Chinese government criticised the US government's unilateralism and the damaging effect it would have on the UN, and more broadly condemned the West's focus on humanitarian intervention as interference into the internal matters of countries that do not support the West's leadership. When the Chinese embassy in Belgrade was accidentally bombed by NATO forces in May, the Chinese media portrayed the event as a Western attempt to weaken China, further increasing the level of Chinese nationalism that was defining itself as anti-Western. The Chinese government sought to maximise this nationalism by accusing the US of manipulating the 1989 demonstrators and subsequent international views on China in attempts to destroy China.<sup>196</sup> These views were used as justification for the suppression of political unrest in China in order for China's independence and economic reforms to be safeguarded. In addition, the Chinese government placed a greater emphasis on the state sovereignty principle as a defense against external criticism.<sup>197</sup> China further expressed its outrage to the bombing by linking US unilateralism with its human rights concerns and suspended indefinitely the US-China human rights bilateral dialogue. It also suspended discussions on China's accession to the WTO, military exchanges, and

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<sup>194</sup> It particularly noted the failure of the US to sign and ratify a number of UN treaties and conventions and to meet some of its reporting obligations to UN bodies, thus accusing the US government of double standards. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 244.

<sup>195</sup> Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*.

<sup>196</sup> Anti-US demonstrations, much encouraged by the Chinese government, resulted throughout China. 'The U.S. consulate general's residence in Chengdu was burned, tons of rocks were hurled at the U.S. Consulate in Shenyang, notable protests occurred outside the U.S. missions in Shanghai and Guangzhou, and dramatic and sustained demonstrations occurred at the U.S. Embassy in Beijing on May 8-10.' Lampton, *Same Bed Different Dreams: Managing U.S.-China Relations, 1989-2000*, p. 60.

<sup>197</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 248. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000*, pp. 59-60.

talks on arms control and proliferation. In June the following year all of these suspensions were lifted except for the one on the human rights dialogue.<sup>198</sup>

The Chinese government responded to its external critics in various ways in 2000, including continuing to criticise the US government. In response to the US Department of State's 1999 human rights report on China, the Chinese government published a report on the US human rights record in 1999 including gun-related killings, police brutality and judicial corruption.<sup>199</sup> The US sponsorship of a resolution on China at the 2000 UNCHR session resulted in the Chinese government applauding those states that did not support the resolution and criticising the US for its hegemonic intentions and going 'against the prevailing trend in international human rights: dialogue, not confrontation'.<sup>200</sup> The Chinese government further responded to external criticism by publishing three White Papers on human rights, two on progress on human rights in China and one on ethnic minorities. The two Papers on progress on human rights further promoted the priority of the rights to subsistence and development, and that those who had committed crimes were punished under the law and so these could not be considered human rights abuses. The importance of stability in order to promote human rights and the best mediums for discussing and promoting human rights were the dialogue approach and technical exchanges were also highlighted. Evidence given of human rights improvements included improvements to the judicial system, efforts to re-train and re-employ redundant workers, and the economic, social, cultural, civil and political benefits to ethnic minorities since the establishment of the People's Republic of China. In addition, mention was made of the need for China to follow its own path of human rights development, not the West's, because of its different historical experiences.<sup>201</sup> The White Paper on ethnic

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<sup>198</sup> The human rights dialogue was not resumed until late 2001. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 247. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000*, p. 57. Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, pp. 21, 61.

<sup>199</sup> Information Office of the State Council of the People's Republic of China, "Human Rights Record of the United States in 1999," *Beijing Review* 13 March (2000), 18-28.

<sup>200</sup> Ren Xin, "US Stands Alone in Anti-China Proposals," *Beijing Review* 1 May (2000), p. 8.

<sup>201</sup> Information Office of the State Council of the People's Republic of China *11th Years of Progress in China's Human Rights* (June, 2000 [cited 29 March 2004]); available from <http://www.china.org.cn/white/3/index.htm>.

minorities highlighted that all ethnic groups have enjoyed equal status and rights since the founding of the People's Republic of China, and that these rights are protected by law. The Paper also claimed that ethnic minorities' freedom of religious belief was respected, as well as the freedom to preserve and develop their cultural practices.<sup>202</sup>

In contrast to the responses to the US government in 2000, the Chinese government appeased the UK government for its continued refusal to sponsor a resolution at the UNCHR by allowing officials from the UK Select Committee on Foreign Affairs to visit China for four days in mid 2000 as part of an inquiry into the effectiveness of the UK-China constructive dialogue approach to human rights. The Chinese government continued to place limits on such visits, however, with the refusal of permission for the visiting Committee officials to meet with human rights activists in China. The reason given was that 'China welcomed criticism based on goodwill...but establishing relations with people hostile to the Chinese Government was not a way of fostering goodwill.'<sup>203</sup>

In response to growing internal dissatisfaction with official corruption, in 2000 the Chinese government increased its anti-corruption efforts and convicted a number of high-ranking officials. At least two were given the death sentence and executed.<sup>204</sup> There were also some attempts to improve the fairness of the justice system. For example, in November officials in Liaoning province announced that in some cities proof would be the basis for prosecutions rather than confessions. Greater official acknowledgement of the scale of the corruption problem came in 2001 with the Vice-President of the Supreme People's Court admitting that there was corruption in the legal system and the Supreme People's Procuratorate admitting that the CCP

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Information Office of the State Council of the People's Republic of China, *Progress in China's Human Rights Cause in 2000* (April, 2000 [cited 29 March 2004]); available from <http://english.peopledaily.com.cn/features/hr2000.hr.html>.

<sup>202</sup> Information Office of the State Council of the People's Republic of China, *National Minorities Policy and Its Practice in China* (June 2000 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/>.

<sup>203</sup> Select Committee on Foreign Affairs, *Tenth Report*.

<sup>204</sup> Amnesty International, *Amnesty International Report 2001*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.



interfered in 'sensitive cases'. Some regulations were subsequently introduced to try to prevent this.<sup>205</sup>

Other actions by the Chinese government in 2000 including limiting the ability of the Dalai Lama to get an international audience when successful Chinese lobbying of the UN prevented the Dalai Lama from participating in the World Millenium Peace Summit in August 2000.<sup>206</sup> The following year the Chinese government was able to persuade enough UN member states to vote against HRIC being accredited to the September 2001 World Conference Against Racism.<sup>207</sup>

In further responses to external critics, in 2001 the Chinese government made the concession of ratifying the ICESCR in February, although this ratification included a reservation on the right to form trade unions independent of the government. In May the Chinese government agreed to a programme of cooperation with the ILO, 'including raising public awareness about international labour standards'.<sup>208</sup> The Chinese government also received two significant concessions itself in 2001, the first being the award to Beijing of the 2008 Olympics, a prize that China's leaders had long desired. Despite the campaigning efforts of NGOs such as HRW, no human rights conditions were attached to China's winning bid. The Chinese government did announce, however, that foreign journalists covering the Olympics in 2008 would be allowed unrestricted access across the country.<sup>209</sup> China received another long-desired prize in December when it was accepted into the WTO. Amongst other requirements, this committed the Chinese government to improving its legal system to support international trade.<sup>210</sup>

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<sup>205</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>206</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>207</sup> Human Rights In China, *HRIC Excluded from UN Conference* (Summer 2001 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=617&subcategory\\_id=10](http://iso.hrichina.org/iso/article.adp?article_id=617&subcategory_id=10).

<sup>208</sup> Continuing the mixed messages it was sending on the right to form trade unions, the Chinese government amended its Trade Union Law in October 2001 in a stated attempt to promote this right, but the All China Federation of Trade Unions continued to be the only union allowed to officially function. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*.

<sup>209</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>210</sup> Sharon K. Hom, "China and the WTO: Year One," *China Rights Forum*, no. 1 (2003), p. 13.

In response to the defeat of the US-led resolution on China at the 2001 UNCHR session, and in the wake of the Bush administration taking office in the US and its harder line on US-China relations than the Clinton administration, the Chinese government once again highlighted the hegemonic tendencies of the US and its failure to embrace dialogue over confrontation as its method of engagement over human rights issues. China also pointed out recent human rights abuses in the US, including the racial violence in Cincinnati, and that the US was not respecting China's sovereignty.<sup>211</sup> US-China relations had further deteriorated by the middle of 2001 with the Chinese capture of a US naval spy aircraft, President Bush's meeting with the Dalai Lama and the US permission for a past and present President of Taiwan to visit the US.<sup>212</sup> By the end of 2001 China had adopted a more conciliatory tone with the US, responding to attempts from Washington to improve the relationship by agreeing to resume the US-China human rights dialogue in October. However, this more conciliatory approach did not stop the Chinese government from publishing a White Paper in March 2002 on the human rights record of the US, no doubt in response to the US Department of State's report on human rights in China in 2001. This Paper included the criticism that the US government interfered in other states' internal matters using concern for human rights as an excuse.<sup>213</sup>

In response to the September 11, 2001 terrorist attacks in the US, the Chinese government supported the US administration by cooperating on the sharing of information about terrorists and was 'muted in its criticism of military action in Afghanistan'.<sup>214</sup> China also minimised its resistance to US attempts to get the UN Security Council supportive of military action in Iraq, assisted the US to pressure

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<sup>211</sup> Beijing Review, "China Foils U.S. Bid at U.N. Human Rights Session," *Beijing Review*, 3 May 2001, 8. Beijing Review, "Human Rights Issue: As a Factor in Sino-U.S. Relations," *Beijing Review*, 3 May 2001, 9-10.

<sup>212</sup> Foot, "Bush, China and Human Rights," p. 176. Gittings, "Long Term Goals Sway Chinese". Liu Jiang, "Sino-U.S. Relations Develop in Twists and Turns," p.11. Xu Hongzhi, "US Government: One Mistake after Another".

<sup>213</sup> Information Office of the State Council of the People's Republic of China, *Human Rights Record of the United States in 2001* (March 2002 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/20020313/index.htm>.

<sup>214</sup> Foot, "Bush, China and Human Rights," p. 178.

North Korea over its nuclear weapons programme and Pakistan to support the anti-terrorist coalition, and restricted its missile technology exports to North Korea, Iraq, Iran, Libya and Syria. In return for this support, the US government participated in US-China presidential summits, did not oppose China's bid for the 2008 Olympics and supported China's accession to the WTO. In addition, the US government labelled the East Turkestan Islamic Movement in Xinjiang a terrorist organisation.<sup>215</sup> The Chinese government also responded to the renewed emphasis on anti-terrorism by introducing an anti-terrorist campaign and amending the criminal law, resulting in an increased number of offences attracting the death penalty and an alarming lack of clarity over the definitions of terrorist organisations and activities. The anti-terrorist campaign was used to further repress expressions of dissent in Xinjiang, attracting a response from the US government and other external critics that China should not violate the rights of those peacefully exercising their dissent. The Chinese government's reply was to produce a White Paper on Xinjiang in May 2003 outlining how the rights of the region's citizens had improved under the rule of the PRC.<sup>216</sup>

In 2002 and 2003 the Chinese government faced health epidemics growing at an alarming rate and began responding to the crises by openly admitting their scale rather than just repressing those who were trying to highlight the urgency of the crises. In August the Chinese government finally admitted that there was a serious epidemic of AIDS in some parts of China and that local officials had covered up the problem.<sup>217</sup> Some of the AIDS sufferers protesting against the lack of healthcare and others seeking to publicise the epidemic had already been detained including Dr Wan

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<sup>215</sup> Amnesty International, *Amnesty International Report 2003*. James Dao, *Closer Ties with China May Help Us on Iraq* (The New York Times, 4 October 2002 [cited 4 October 2002]); available from <http://query.nytimes.com/gst/abstract.html?res=F10C12FD3D5F0C778CDDA90994DA>. Kenneth Lieberthal, *Has China Become an Ally?* (New York Times, 25 October 2002 [cited 25 October 2002]); available from <http://query.nytimes.com/gst/abstract.html?res=F10C12FC3B580C768EDDA90994DA404482>. Mann, *Democratisation (and Its Limits) in Greater China*. The Associated Press, *US Condemns China on Arms Proliferation* (New York Times, 23 March 2003 [cited 23 March 2003]); available from <http://www.nytimes.com/>.

<sup>216</sup> Information Office of the State Council of the People's Republic of China, *History and Development of Xinjiang* (May 2003 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/20030526/index.htm>.

<sup>217</sup> Human Rights in China, *News Update*.

Yanhai, the director of an unofficial organisation that had been providing information on AIDS and campaigning on behalf of AIDS sufferers.<sup>218</sup> Due to the international attention of NGOs, the US government and the UN, and with much needed funding from the Global Fund to Fight AIDS, Tuberculosis and Malaria for the Chinese government jeopardised by Wan's detention, he was released after one month and his NGO was allowed to re-establish as an official organisation.<sup>219</sup> From November 2002 the Chinese government also faced an outbreak of the SARS epidemic and by mid 2003, when the outbreak appeared to have been contained, more than five thousand people had caught the virus and 349 had died. After initial government attempts to prevent news of the virus reaching the public, the government admitted that local officials had covered up the degree to which this disease had spread and sacked the Health Minister and the Mayor of Beijing for negligence in May 2003.<sup>220</sup>

In the midst of these crises, Hu Jintao was elected to replace Jiang Zemin as General Secretary of the CCP at the 16<sup>th</sup> National Congress in November 2002 and became President of China in March 2003.<sup>221</sup> Recognising the growing anger of the poverty stricken rural masses and the millions of workers who were either laid off and/or unpaid or facing this, by the end of 2003 President Hu and the new Prime Minister Wen Jiabao were known for their promotion of the need to address these concerns.<sup>222</sup> However, aside from a few initiatives to decrease some rural taxes, concrete measures

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<sup>218</sup> Human Rights in China, "News Update Late May-August 2003," p.9.

<sup>219</sup> However, the Chinese government also set up its own government organised NGOs in the same area and sought to marginalise the influence of Wan's organisation. Albert Chen, "The Limits of Official Tolerance: The Case of Aizhixing," *China Rights Forum*, no. 3 (2003), 51-55.

<sup>220</sup> John Gittings, "Seizing the Hour," *The Guardian*, 9 June 2003, 6-7.

<sup>221</sup> Amnesty International, *Amnesty International Report 2003*.

<sup>222</sup> Hu toured the poverty stricken region of Inner Mongolia in January 2003 where he was pictured talking with poor herders and farmers. This was followed by a conference on rural poverty that encouraged officials to take more action to alleviate poverty. In the wake of the Chinese government's announcement at the beginning of 2003 that there would be an official end to the commitment to provide lifelong employment to government employees, the Labour Minister Zhang Zuoji announced that tens of millions of more Chinese would gain access to unemployment benefits, pensions and medical insurance. However, he also acknowledged that the government could not afford to introduce many of these extended social welfare measures to the rural areas where most of China's population lives. Erik Eckholm, "China's New Leader Works to Set Himself Apart" (*New York Times*, 12 January 2003 [cited 12 January 2003]); available from <http://query.nytimes.com/gst/abstract.html?res=F00C17FD3C550C718DDD%5B0894DB404482>. The Associated Press, "China Promises Help for Jobless, Poor" (*New York Times*, 12 March 2003 [cited 15 March 2003]); available from <http://www.nytimes.com/>.

to address these issues were lacking. Given that such measures would mean wresting power and profits from local officials and government supported companies, the scale of the problem that the Chinese leadership face to overcome poverty and the widening gap between rich and poor is enormous.<sup>223</sup>

Other Chinese government initiatives in 2002 and 2003 were designed to improve the justice system. In 2002 these included

new disciplinary measures for corrupt or incompetent judges; new educational and competency standards for would-be judges, prosecutors, and lawyers; a code of ethics for prosecutors; the introduction of a chief prosecutor for each case rather than a prosecution committee; a prohibition against firing judges without proper legal procedures; and, as part of the effort to eliminate corruption annual internal disciplinary court inspections<sup>224</sup>

But despite these changes, there were reports of continuing practices such as interference in the justice system by CCP officials, the acceptance of confessions gained through the use of torture as evidence, and those on trial being denied access to their lawyers.<sup>225</sup> In 2003 the police were urged 'to eliminate arrest quotas as a performance standard and to respect human rights'.<sup>226</sup> Early results were the dismissals of some police officers in a number of regions, for example, forty police officers were dismissed in Guangdong for not passing a criminal law and procedures examination and eleven police chiefs in Beijing for allegedly abusing their powers. Other legal reforms in 2003 included replacing imprisonment for some crimes with community service,<sup>227</sup> and the abolition of custody and repatriation in June, a form of administrative detention that had led to the abuses of millions in such centres

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<sup>223</sup> Joseph Kahn, "Beijing Leaders' Populist Touch Is Not Being Felt by Rural Poor" (*New York Times*, 10 January 2004 [cited 13 January 2004]); available from <http://www.nytimes.com/2004/01/10/international/asia/10CHIN.html?ex=1075079255&ei>.

<sup>224</sup> Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>225</sup> The National Bar Association in China estimated in 2002 that seventy percent of defendants did not have a lawyer to represent them. *Ibid*.

<sup>226</sup> Human Rights in China, "News Update Late May-August 2003," p.9.

<sup>227</sup> Li Xiaorou, "Paying Their Debt to Society: Convicts Serve Time in Home Confinement Program," *Beijing Review* 10 July (2003), 14-15.

including homeless children, people suffering from mental illness and rural migrants. The latter change appears to have been in response to a public outcry in China over the brutal murder of a fashion designer from Hubei, Sun Zhigang, in a custody and repatriation centre. Eighteen suspects were subsequently sentenced to terms in prison or given the death sentence.<sup>228</sup>

By the end of 2003 the Chinese government was facing less public criticism of its human rights record as there had been no resolutions on China sponsored at the 2002 and 2003 UNCHR sessions, and experiencing a more cooperative relationship with the US.<sup>229</sup> The Chinese government responded to these developments not only by minimising its resistance to US attempts to get the UN Security Council to support military action in Iraq and supporting other US-led anti-terrorist actions, but also by becoming more muted in its responses to other external criticism of its human rights record. For example, the release of the 2002 US Department of State report on human rights in China did not attract the degree of criticism of the US from the Chinese government that reports of previous years had. The Chinese government did once again label the report as untrue and a reflection of the hegemonic aspirations and desire of the US to hamper China's development as well as referring to the "poor" human rights record of the US. However, in the English language *Beijing Review* the reaction of the Chinese government to the 2002 US report was a good deal briefer than in previous years.<sup>230</sup>

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<sup>228</sup> Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. China: Abolition of "Custody and Repatriation" Welcomed, but More Needs to Be Done," (ASA 17/028/2003: 27 June, 2003).

<sup>229</sup> In 2002 the US government had supported China's desire to join the WTO, had not opposed Beijing's 2008 Olympics bid, continued to participate in joint presidential summits, and had labeled the East Turkestan Islamic Movement in Xinjiang a terrorist organisation. Lieberthal, *Has China Become an Ally?* Mann. *Democratisation (and Its Limits) in Greater China*.

<sup>230</sup> The 17 April 2003 edition of the *Beijing Review* covered the US report and criticisms of it in 2.5 columns on one page in contrast to the eleven page report on the human rights abuses of the US in the 13 March 2000 edition of the *Beijing Review* in response to the 1999 US Department of State report on China's human rights record. In March 2002 the Chinese government responded to the 2001 US report by publishing a White Paper on human rights in the US. *Beijing Review*, "U.S. Human Rights Report Denounced," *Beijing Review*, 17 April 2003, p.5. Information Office of the State Council of the People's Republic of China, "Human Rights Record of the United States in 1999". Information Office of the State Council of the People's Republic of China, *Human Rights Record of the United States in 2001*.

The Chinese government also released further political prisoners in 2002 and 2003, all of whose cases had been raised as priorities by the US government with the Chinese government, in addition to the lobbying of some of the other democratic states and NGOs. Two months after President Jiang's visit to the US, Xu Wenli, founder of the CDP, was released on medical parole in December 2002 and exiled to the US.<sup>231</sup> Fang Jue, a democracy activist detained in November 2002, was released and exiled in January 2003.<sup>232</sup> In October 2003 Fong Fuming, a Chinese-born US citizen, was released from prison in China two years before his sentence was due to end.<sup>233</sup> In December 2003, two weeks prior to Prime Minister Wen Jiabao's visit to the US, three dissidents imprisoned in 2002 for communicating information on subjects such as democracy and criticisms of the government on the internet were released.<sup>234</sup>

Seven Tibetan political prisoners were released in 2002 and in 2003 a further two were released, a paroled Tibetan nun was allowed to leave China for the US and reduced sentences given to two other detained Tibetans.<sup>235</sup> The releases of two of the Tibetan prisoners in 2002 were timed just prior to President Bush's visit to China in February 2002 and Vice President Hu Jintao's visit to the US in May 2002, suggesting that these actions were a concession to the US. In addition, the Chinese government allowed representatives of the Dalai Lama to visit Tibet in October 2002,<sup>236</sup> and in early 2003

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<sup>231</sup> Amnesty International, *Amnesty International Report 2003*.

<sup>232</sup> Human Rights in China, "January-February Update," p. 110.

<sup>233</sup> The Associated Press, *Beijing Releases Chinese-Born American Prisoner 2 Years Early* (New York Times, 28 October 2003 [cited 31 October 2003]); available from <http://www.nytimes.com/>.

<sup>234</sup> Jim Yardley, *China Releases 3 "Cyber Dissidents"* (New York Times, 30 November 2003 [cited 2 December 2003]); available from <http://www.nytimes.com/2003/11/30/international/asia/30CND-CHIN.html?ex=107127379>.

<sup>235</sup> Ngawang Sangdrol, the Tibetan nun allowed to leave for the US, had been the subject of lobbying by various members of the US government, other democratic state officials and human rights NGOs. Erik Eckholm, *China Releases a Tibetan Held for 19 Years* (New York Times, 4 April 2002 [cited 4 April 2002]); available from

<http://www.nytimes.com/2002/04/04/international/asia/04CHIN.html?pagewanted=print&position=to>. Reuters, *Tibetan Monk Is Reported Freed by China Ahead of Bush's Visit* (New York Times, 21 February 2002 [cited 21 February 2002]); available from

<http://www.nytimes.com/2002/02/21/international/asia/21MONK.html?pagewanted=print>. The Associated Press, *China Lets Tibet Nun, Long Jailed, Go to US* (New York Times, 30 March 2003 [cited 2 April 2003]); available from <http://www.nytimes.com/>. The West Australian, "China Releases 'Spy' in Gesture of Peace," 2002.

<sup>236</sup> This visit by the exiled Tibetans was described by the Chinese government as a private tour of their homeland in order to see the economic advancements that had been made since Chinese rule. Despite this, the visit and talks between the Dalai Lama's representatives and Chinese officials did represent

invited the Dalai Lama's representative to Beijing to discuss the issue of Tibetan autonomy and released four Tibetan prisoners.<sup>237</sup> These concessions appeared to be in response to US pressure to show that progress had been made since the October 2001 US-China human rights dialogue meeting and to encourage the US to not support a resolution on China at the 2003 UNCHR session.<sup>238</sup> These concessions also represented at least some thawing in the Chinese government's previous steadfast stance of refusing to engage with the Dalai Lama or his representatives. However, despite this, by the end of 2003 there continued to be reports of abuses by the Chinese government of the two core rights focused on here.

### China's Continuing Human Rights Abuses

As during the 1991 to 1997 period, despite the concessions made by the Chinese government and attempts to minimise some abuses, reports continued to be published by international human rights NGOs on the abuses of the two core rights by the Chinese government throughout the 1997 to 2003 time period.

Even though there was greater official tolerance for the expression of political dissent from late 1997 into 1998, detentions, unfair trials, death sentences and the use of torture and ill-treatment on detainees continued to be practised by the Chinese government. In 1999 the Chinese government intensified its repressive measures by carrying out 'the most serious and wide-ranging crackdown on peaceful dissent in

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some thawing of the Chinese leadership's previous steadfast refusal to engage with the Dalai Lama or his representatives. Eckholm, *Dalai Lama's Envoy Hopeful for China Talks*

<sup>237</sup> Alden, "White House Drops Censure of China's Human Rights".

Foot, "Bush, China and Human Rights," p. 181. It is important to note that after political prisoners are released they are often monitored by police and harassed, and some are forced into exile. Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*.

Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*.

<sup>238</sup> Alden, "White House Drops Censure of China's Human Rights".

Erik Eckholm, "Dalai Lama's Envoy Hopeful for China Talks" (*New York Times*, 30 September 2002 [cited 30 September 2002]); available from

<http://query.nytimes.com/gst/abstract.html?res=F40E14F83F5C0C738FDDA00894DA404482>.



China for a decade’<sup>239</sup> The crackdown reportedly continued throughout 2000 to 2003. Overall, from 1998 hundreds, if not thousands, were detained for opposing the Chinese government, and thousands imprisoned in previous years remained in detention. Many were detained without trial or had unfair trials with verdicts being decided before trials and lawyers being subject to pressures from officials. Those remaining in detention included some imprisoned for their involvement in the Tiananmen Square demonstrations in 1989. Thousands continued to be detained in “re-education through labour” camps throughout 1997 to 2003. In addition, death sentences continued to be passed and executions carried out over this time period, many as part of the Chinese government’s “strike hard” campaign against crime targeting people convicted of crimes ranging from theft of petrol, bribery, pimping and tax fraud to violent crimes.<sup>240</sup>

Widespread torture and ill-treatment of detainees at police detention centres, prisons and labour camps continued throughout 1997 to 2003. Harsh prison conditions, including inadequate medical care, also continued to be reported throughout 1997 to

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Foot, "Bush, China and Human Rights," p. 181.

<sup>239</sup> Amnesty International, *Amnesty International Report 2000*. By 2000 HRIC observed that ‘[t]hese human rights abuses have reached such alarming proportions since late 1998 that HRIC believes that the Government of China is currently conducting the most ruthless suppression of dissent since the crackdown on the 1989 demonstrations.’ Human Rights In China, *The Human Rights Situation in China and the Dialogue on Human Rights*.

<sup>240</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, "News Release. China: Tiananmen Square - Expanding Th Circle of Victims after 11 Years," (ASA 17/25/00: 31 May, 2000). Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. China: 'Striking Harder' Than Ever Before," (ASA 17/022/2001 115/01: 6 July, 2001). Human Rights in China, "News Update Late May-August 2003," p.8. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet* (2004 [cited 29 March 2004]); available from [http://hrw.org/english/docs/2003/12/31/china7001\\_txt.htm](http://hrw.org/english/docs/2003/12/31/china7001_txt.htm).

2003. In addition, the placing of detainees into psychiatric hospitals and force feeding them drugs was used as punishment for some political activists.<sup>241</sup>

Reports of repression in ethnic regions continued throughout 1997 to 2003. Repression of members of the Muslim Uighur ethnic group in Xianjiang Autonomous Region intensified in 1997 in the aftermath of large-scale riots in February protesting against Han Chinese rule in the province. Repressive measures continued throughout 1998 to 2003, including killings by police during clashes between Muslim protestors and police, detentions, death sentences and executions. Increased numbers of Uighurs were executed in the anti-terrorist campaign introduced by the Chinese government in the aftermath of the terrorist attacks in the US on September 11, 2001, and further restrictions were placed on Muslim practices, including the closure of mosques and the detention of Muslim clergy. The Chinese government did face genuine security threats from the violent methods employed by some Uighur separatists in Xinjiang, however, the rights of many other Uighurs who did not advocate violence but expressed views contrary to the Chinese government were also victims of this campaign. Repression of members of the Tibetan ethnic group and members of religious groups in Tibet also continued throughout 1997 to 2003, including arrests, detentions, the use of torture and ill-treatment, and harsh conditions in prison. A re-education campaign for monks and nuns begun in 1996 continued throughout 1997 to 2003 under which monks and nuns were supposed to denounce the Dalai Lama and acknowledge Tibet as part of China. Refusal to cooperate resulted in expulsions

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<sup>241</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. China: Extensive Use of Torture - from Police to Tax Collectors to Birthcontrol Officials," (ASA 17/003/2001 10/01: 12 February, 2001). Human Rights in China, "News Update Late March-May 2003". Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet*. Elisabeth Rosenthal, "In Rural China, Mental Hospitals Await Some Who Rock the Boat" (*New York Times*, 16 February 2002 [cited 16

and/or arrests. Death sentences were passed in 2002 for Tibetans convicted of 'political' offences for the first time in many years, with one reportedly being executed in January 2003. There were also reports of repression in the Inner Mongolian Autonomous Region where individuals were detained for calling for an independent Inner Mongolia. In addition, Buddhist groups in this region were reported to have had their activities and members repressed.<sup>242</sup>

Repression of members of non-official religious groups throughout other areas of China continued with reports of detentions and beatings of members of unofficial Christian groups. An "anti-superstition" campaign launched by the Chinese government in 1998 resulted in more members of unofficial Christian and other religious groups, including organised meditation groups, being detained and sentenced to long terms of imprisonment throughout 1999 to 2003. Many reported being tortured or ill-treated while in detention, and at least ten Falun Gong followers died in detention under suspicious circumstances. From 1999 those detained included thousands of followers of Falun Gong and other organisations labeled as 'cults' by the

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February 2002]); available from

<http://www.nytimes.com/2002/02/16/international/asia/16CHIN.html?pagewanted=print>.

<sup>242</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. China: International Community Must Oppose Attempt to Brand Peaceful Political Activists as "Terrorists"," (ASA 17/040/2003: 19 December, 2003). Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. People's Republic of China: Amnesty International Condemns Execution of Tibetan, Following Unfair Trial," (ASA 17/008/2003: 27 January, 2003). Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. People's Republic of China: No Justice for the Victims of the 1997 Crackdown in Gulja (Yining)," (ASA 17/011/2003: 4 February, 2003). Amnesty International, *People's Republic of China: Continuing Abuses under a New Leadership - Summary of Human Rights Concerns* (1 October, 2003 [cited 8 April 2004]); available from <http://web.amnesty.org/library/Index/ENGASA170352003?open&of+ENG-CHN>. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet*. Select Committee on Foreign Affairs, *Tenth Report*.

Chinese government. From June 2001 greater efforts were placed on repressing the practitioners of these 'cults' by the authorities.<sup>243</sup>

Others detained for expressing views in opposition to the Chinese government included farmers protesting against corruption and high taxes, and workers protesting against corrupt officials, low wages, mass lay-offs, unsafe working conditions and calling for reforms throughout 1997 to 2003. Every year on the anniversary of the 4 June 1989 crackdown on demonstrators in Beijing there continued to be further arrests of those calling for remembrance and justice on behalf of the victims of the massacre and their families.<sup>244</sup>

Greater government controls over information included repressive measures being used against those considered to be threats to the Chinese government. From 1998 to 2003 there were reports of people being arrested for communicating information on human rights or other topics deemed unacceptable by the Chinese government over the

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<sup>243</sup> Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Human Rights in China, "News Update Late May-August 2003," p. 8. Human Rights in China, "In Custody: People Imprisoned for Their Religious Beliefs," *China Rights Forum*, no. 4 (2003), 93-123. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>244</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. People's Republic of China: 'Subversion' Charges Must Not Be Used to Imprison Rights Activists," (ASA 17/005/2003: 14 January, 2003). Human Rights in China, "News Update Late March-May 2003," p. 8. Human Rights in China, "News Update Late May-August 2003," p. 7. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet*.

internet. Tighter government control over the media from 1999 also resulted in the arrests of a number of newspaper and journal editors for not promoting CCP views.<sup>245</sup>

In April 2001 the Chinese government launched a new anti-crime “strike hard” campaign, resulting in increased numbers of people being sent to re-education through labour camps. The “strike hard” campaign also resulted in greater numbers of executions than ever before, with sixty offences attracting the death penalty including violent acts, poaching, theft and drug trafficking. During the first month of the campaign there were reportedly ten thousand people arrested and five hundred executed. This campaign continued in 2002 and 2003.<sup>246</sup>

Despite the various concessions made by the Chinese government to its internal and external critics over the 1997 to 2003 period, it is evident that it also continued to carry out abuses of the two core rights throughout the 1997 to 2003 period. Any organised attempts perceived to challenge CCP rule were particularly targeted, severely limiting the ability of opposition groups to form and function.

### Domestic Opposition

It appeared in 1997 that domestic groups expressing ideas in opposition to the Chinese government were being tolerated. But by the end of the following year, this tolerance

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<sup>245</sup> Human Rights in China, "News Update Late March-May 2003," p. 6. Human Rights in China, "News Update Late May-August 2003," p. 7. See also Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Human Rights in China, "News Update Late May-August 2003," p. 7. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2004: China and Tibet*. Reuters, "China Jails Dissident Ahead of Wen-Bush Meeting" (*New York Times*, 8 December 2003 [cited 11 December 2003]); available from <http://www.nytimes.com/reuters/news/news-rights-china.html?ex=1071873491&ei=1&en=>.

<sup>246</sup> Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, *People's Republic of China: Continuing Abuses*

had proven to be short-lived. Reflecting the Chinese government's attempts to increase its political legitimacy in the eyes of its citizens, in 1997 there appeared to be greater official respect for the freedom of expression. From late 1997 to early 1998 some academics called for China to adopt universal human rights standards and a democratic political system, and to bring about the separation of the state and the judiciary.<sup>247</sup> Some Chinese press reports in 1998 detailed incidences of the use of torture and ill-treatment by officials.<sup>248</sup> The months leading up to President Clinton's visit in June 1998 saw further space for calls for human rights improvements in China. A number of 'daring intellectuals published books and organised discussion forums or internet groups to openly advocate Western-style liberalism, political reform, and respect for human rights'.<sup>249</sup> However, not long after Clinton's visit, Chinese government tolerance for this expression began to wane with political discussion forums being banned and further regulations placed on the use of the internet. By the end of 1998 attempts to set up organisations calling for human rights improvements and political reform were met with further repressive responses. In this climate, links between Chinese activists and international human rights NGOs continued to be dangerous to establish and maintain and thus not widespread. International human rights NGOs did continue to document the abuses of some of these activists, however, and campaigned to bring these abuses to the attention of the UN human rights bodies and other states.

The CDP, an organisation that attempted to establish itself across nine provinces in June-July 1998, was particularly targeted by the Chinese government and attracted the attention of international human rights NGOs such as AI, HRW and HRIC. The CDP's aim was to become a national opposition party within China that would put

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*under a New Leadership - Summary of Human Rights Concerns*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>247</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, pp.228-29. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*.

<sup>248</sup> For example, a newspaper report in Guangdong province in March detailed that a farmer had been kept in a two square metre cage for five years because he had attacked a police officer. The report resulted in the freeing of the man and a commission set up to investigate his ill-treatment. Amnesty International, *Amnesty International Report 1999*.

<sup>249</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests*, p. 33.

forward candidates for the National People's Congress.<sup>250</sup> The Chinese government quickly responded by immediately arresting a number of members. Arrests continued and by the end of 1999 thirty leading members had been detained.<sup>251</sup> By July 2000 ten leaders of the CDP had received lengthy prison terms. Persecution of CDP members continued throughout 2001 and 2002, including the detention of another CDP leader in 2002.<sup>252</sup> Despite this repression, by mid 2003 a small number of CDP members were reportedly continuing to make statements on behalf of the Party.<sup>253</sup>

Other organisations calling for reforms also faced repressive measures. For example, in October 1998 three of the leaders of the China Development Union, a "think-tank" independent of the government focused on environmental and political reform efforts with reportedly four thousand members, were detained and the group disbanded. An anti-corruption group with one hundred members, Corruption Behaviour Observers, was also disbanded in October.<sup>254</sup> An unofficial anti-corruption group formed in 1999 in Henan province managed to unearth approximately one hundred cases of corruption before one of its founders was arrested and sentenced to four years in prison for "anti-government activities".<sup>255</sup> In April 2000 the founder of the unofficial organisation Corruption Watch received a four year prison sentence.<sup>256</sup> In March 2001 four internet activists of the New Youth Society, established to discuss ways of bringing about social reform, were detained for their involvement in this organisation.<sup>257</sup>

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<sup>250</sup> van der Made, *The Rise and Fall of the China Democracy Party*.

<sup>251</sup> Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 234. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 219.

<sup>252</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>253</sup> Liu Xiaobo, "The Rise of Civil Society in China," *China Rights Forum*, no. 3 (2003), p.20.

<sup>254</sup> The dissidents were Wang Youcai, Qin Yongmin and Xu Wenli. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 220. See also Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*.

<sup>255</sup> Amnesty International, *Amnesty International Report 2001*.

<sup>256</sup> Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*.

<sup>257</sup> China News Digest, *News Report* (23 May, 2001 [cited 8 April 2004]); available from <http://www.cnd.org/Global/01/05/23/010523-2.html>.

Other activity calling for political reforms, or redress against unpunished acts of violence, 'wrongful imprisonment and torture' or 'unpaid wages and compensation', included thousands of people who traveled to Beijing from all over China to petition China's legislators, particularly at the time of their annual meeting. Often these attempts were futile, however, the number of petitioners in 2002 was 160,000 individuals and 200 large group visits, a growth of more than thirty percent since 2000.<sup>258</sup> Examples included a number of individuals petitioning senior Chinese officials in 1997 to bring about various reforms such as democratic reforms, freedom of the press and speech, the release of Zhao Ziyang from house arrest and 'a reversal of the official verdict on the June 1989 protests'.<sup>259</sup> In 1998 petitions were sent by approximately twenty signatories to the NPC asking for human rights improvements including the end of the use of labour camps. Five of the signatories were subsequently arrested.<sup>260</sup> In 2002, 192 individuals signed a petition calling for political reforms and sent it to the NPC and a number of these signatories were also subsequently detained by Chinese officials.<sup>261</sup> A petition in May 2003 generated a positive response from the Chinese media and led to the abolition of the custody and repatriation system that allowed police in large cities to detain, impose fines and expel rural migrants without any judicial procedure.<sup>262</sup> Another positive development was the establishment of a number of independent organisations, for example, the Centre for Protection of Rights of Disadvantaged Citizens at Wuhan University, to provide legal aid to individuals who wished to take action against officials who had misused

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<sup>258</sup> These figures are according to the Chinese state petitions and appeals bureau. Chris Buckley, "A Chinese Man Seeks Justice, Clad in the Armor of Persistence" (*New York Times*, 11 March 2002 [cited 13 March 2002]); available from

<http://www.nytimes.com/2002/03/11/international/11CHIN.html?pagewanted=print&position=to>.

<sup>259</sup> Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet*.

<sup>260</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 218

<sup>261</sup> Human Rights in China, "News Update Late March-May 2003," p. 7.

<sup>262</sup> This was in the aftermath of public outrage over media reports that a detained man had been beaten to death in Guangzhou in March. Erik Eckholm, "Petitioners Urge China to Enforce Legal Rights" (*New York Times*, 2 June 2003 [cited 2 June 2003]); available from

<http://query.nytimes.com/gst/abstract.html?res=F30D11FE39540C718CDDAF0894DB404482>.

Joseph Kahn, "World Briefing/Asia: China: Tighter Controls on Police" (*New York Times*, 19 June 2003 [cited 19 June 2003]); available from

<http://query.nytimes.com/gst/fullpage.html?res=9506E7D71138F93AA25755C0A9659C8B63>.



their powers. However, a 1998 report noted that these organisations did not intervene in highly political cases.<sup>263</sup>

Non-official workers' organisations formed and protested against the closures of state-owned enterprises as economic restructuring efforts continued throughout the 1997 to 2003 period. The Chinese government responded by repressing some of the members of these organisations. For example, the founders of the Association to Protect Worker Rights and the Shu Pu Association to Protect the Rights and Interests of Laid-off Workers were detained in 1998, and members of the Free Labor Union of China, the League for the Protection of the Rights of Working People and the "Workers' Forum", all subject of ILO action in 1998, were detained and tortured in 1999.<sup>264</sup> Soon after 21 labour activists established the Zhengzhou Workers Association in 1999, one of the founders was detained and sent to a psychiatric institution for six months.<sup>265</sup> From 2000 to 2003 there were estimated to have been tens of thousands of demonstrations throughout China, reflecting the growing despair of millions of workers who had become unemployed, and continued reports of protest organisers being detained and charged with "subversion". Police responses to these demonstrations were sometimes violent. For example, in May 2000 a demonstration by approximately 5000 workers in a steel factory in Liaoning province regarding lay-offs and non-payments was dispersed by police who injured nearly fifty people in the process.<sup>266</sup> There were also some reports by 2003 of police and government official awareness that these demonstrations needed to be handled with great care as they had much popular support. Some local officials were reported to be more careful with

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<sup>263</sup> Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*.

<sup>264</sup> Amnesty International, *Amnesty International Report 2000*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, pp. 135-36.

<sup>265</sup> Human Rights in China, *Xue Jifeng: Detained in a Psychiatric Hospital for Championing Worker Rights*. (Summer/Fall 2000 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=429&subcategory\\_id=9](http://iso.hrichina.org/iso/article.adp?article_id=429&subcategory_id=9).

<sup>266</sup> Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, "News Release Issued by the International Secretariat of Amnesty International. People's Republic of China: 'Subversion' Charges Must Not Be Used to Imprison Rights Activists".

their responses and more willing 'to meet with protesters, acceding to at least some of their monetary demands'.<sup>267</sup>

Thousands of the Falun Gong sect's members protested in Beijing in April 1999 to protest the Chinese government's decision to not officially register the organisation. The government responded by banning the organisation and sentencing at least eight of its leaders to terms of up to eighteen years imprisonment. Thousands of other members were detained, some also reported being tortured or ill-treated, and thousands were sent to re-education through labour camps. Many were released from detention after being pressured to cease their beliefs, though others were reported to have died from ill-treatment in custody. Falun Gong followers continued to be detained and tortured throughout 2000 to 2002.<sup>268</sup>

The Tiananmen Mothers continued to campaign throughout the 1997 to 2003 period, writing open letters to the Chinese government and making requests for information and redress for families of victims of the June 1989 massacre. In conjunction with the Tiananmen Mothers, in 1999 survivors of the massacre living in the US organised to file a lawsuit in the US, on behalf of 105 families of victims killed in the massacre, against Li Peng for crimes against humanity and reparation for damages and loss of life for his decision to authorise martial law in Beijing in May 1989.<sup>269</sup> In addition, on the tenth anniversary of the Tiananmen Square massacre a number of relatives of the

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<sup>267</sup> Elisabeth Rosenthal, "Workers' Plight Brings New Militancy in China" (*New York Times*, 10 March 2003 [cited 10 March 2003]); available from <http://query.nytimes.com/gst/abstract.html?res=FB0B11FB3D5A0C738DDDA0894DB404482>.

<sup>268</sup> Falung Gong followers reported in 2000 that over fifty followers had died as a result of ill-treatment in detention. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Veron Mei-Ying Hung, "Reassessing Reeducation through Labour," *China Rights Forum*, no. 2 (2003), p. 35.

<sup>269</sup> Human Rights In China, *Mother Courage* (5 February 2004 [cited 3 March 2004]); available from [http://iso.hrichina.org/iso/news\\_item.adp?news\\_id=1390](http://iso.hrichina.org/iso/news_item.adp?news_id=1390).

victims of the killings petitioned the Chinese government to carry out a criminal investigation.<sup>270</sup>

Other expressions of opposition to Chinese government actions included the protests of farmers from 1997 to 2003 in response to corruption, land disputes and high taxation levels. Like the official responses to most of the workers' demonstrations, some of the farmers' protests were met with police violence and the detention of protestors. Uighur nationalists in Xinjiang Autonomous Region continued to protest against Chinese government rule over the 1997 to 2003 period, resulting in hundreds being detained. Tibetan nationalists and members of religious groups in Tibet also continued to oppose Chinese government rule<sup>271</sup>, and in 2001 there were reports of some members of the Southern Mongolian Democratic Alliance being detained for activities promoting Mongolian traditions.<sup>272</sup>

Some Chinese citizens used the internet to express their opposition to the Chinese government during the 1997 to 2003 period. The Chinese government responded by detaining those caught communicating information such as criticisms of its human rights record and placing restrictions on the use of the internet. Despite these restrictions and the repression, by 2003 there were 68 million internet users in China.<sup>273</sup> It must not be assumed, however, that all or even the majority of these users are accessing the internet to communicate information on human rights or other issues that may be critical of the Chinese government. One report from China noted that

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<sup>270</sup> Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 247.

<sup>271</sup> Amnesty International, *Amnesty International Report 1998: China*. Amnesty International, *Amnesty International Report 1999*. Amnesty International, *Amnesty International Report 2000*. Amnesty International, *Amnesty International Report 2001*. Amnesty International, *Amnesty International Report 2002*. Amnesty International, *Amnesty International Report 2003*. Amnesty International, *People's Republic of China: Continuing Abuses under a New Leadership - Summary of Human Rights Concerns*. Human Rights Watch, *Human Rights Watch World Report 1999: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2000: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2001: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

<sup>272</sup> Human Rights Watch, *Human Rights Watch World Report 2002: China and Tibet*.

<sup>273</sup> Human Rights in China, "News Update Late March-May 2003," p.6. Human Rights in China, "News Update Late May-August 2003," p. 7.

very few Chinese users were critical of their government and most were simply interested in accessing the internet for recreational purposes including communicating with their friends, downloading music and playing games. The report also highlighted that the majority of internet users distrusted foreign sources of news more than Chinese sources, an issue that would need to diminish if greater internet usage is to be considered a potential site for greater awareness of alternative political systems and 'an effective tool for social change'.<sup>274</sup>

The participation of villagers in democratic elections provided these Chinese citizens with a means to express their views on the performance of at least some local officials. However, by 2000 there were reports that some villages said to be participating in democratic elections were not following the guidelines, and CCP influence in these elections is likely to have been strong. The Chinese government had also placed significant limits on further democratisation in China with President Jiang Zemin being particularly noted as being against further democratisation. It remains to be seen whether Hu Jintao will be more supportive.<sup>275</sup>

By the end of 2003 the access of millions of Chinese to external sources of information using the internet and the participation of some Chinese in grass-roots democratic elections had not led to the formation of opposition groups that could challenge CCP rule. Legislation restricting the registration and management of social organisations introduced in the aftermath of the Tiananmen Square massacre and tightened in 1998, and the lack of funding for such organisations, has restricted the growth of these groups. Existing opposition groups have also been unable to organise themselves into a mass movement.<sup>276</sup> In addition, the Chinese government was continuing to make it clear that those organising forms of opposition promoting political reform and human rights improvements were likely to face a repressive

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<sup>274</sup> Bobson Wong, "A Matter of Trust: The Internet and Social Change in China," *China Rights Forum*, no. 3 (2003), 41-43.

<sup>275</sup> Thurston, *Rural Rule and Village Elections*. See also Beijing Review, "Improving Villagers Autonomy System".

<sup>276</sup> Sharon Liang, "Walking the Tightrope: Civil Society Organizations in China," *China Rights Forum*, no. 3 (2003), p. 11. Liu Xiaobo, "The Rise of Civil Society in China," p. 20.

response. Members of the CDP, Falun Gong followers and anyone calling for the official stance on the events of June 1989 in Beijing to be changed were particularly targeted by the Chinese government. However, demonstrations and protests by workers and the rural masses were beginning to elicit a slight change in government response by 2003. Reflecting the sheer size of the number of workers and rural citizens suffering under conditions of great poverty, and the growing scale of their protests, the new Chinese President and Prime Minister in 2003 communicated concerns for these groups as their priorities. The reports by 2003 that some police and local officials appreciated the need for workers' protests to be handled with great care also indicated a slight change in government response. However, it is too early to conclude that this reflects a willingness of the Chinese government to engage with these groups rather than repress them.<sup>277</sup> It can only be concluded at this stage that these groups may only hold the potential to develop into a more effective domestic challenge to the Chinese government.

### **Socialisation Processes, the Chinese Government and Influencing the International Human Rights Network – 1997-2003**

As outlined in the last chapter, according to Risse et al., it can be expected in phase three of the spiral model that the socialisation processes of instrumental adaptation and argumentative discourses are both evident, with argumentative discourses becoming increasingly dominant. In the 1991 to 1997 time period, the first stage of China's tactical concessions phase, both socialisation processes were evident throughout. From 1997 to 2003, the second stage of China's tactical concessions phase, both socialisation processes were once again evident throughout.

The instrumental adaptation socialisation process is indicated when the target state makes concessions to internal and external critics in an attempt to stop these

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<sup>277</sup> Indeed, AI would caution against any such optimistic conclusion. Amnesty International Secretariat Official, Interview, London, 16 August 2004.

criticisms, without necessarily believing in the importance of improving its human rights practices. Examples of the Chinese government engaging in this process from 1997 to 2003 include the concessions and commitments made leading up to and in the wake of most of the democratic states ceasing their support for a resolution on China at the 1997 and 1998 UNCHR sessions. These were China signing the ICESCR in 1997 and the ICCPR in 1998, resuming discussions with the ICRC in 1998, and accepting visits from the UN Working Group on Arbitrary Detention in 1997 and the UN High Commissioner for Human Rights in 1998. After the EU and the US had refused to sponsor a resolution at the 1998 UNCHR session, the Chinese government also exiled Wang Dan to the US and allowed a delegation of legal experts from the EU to visit China. In addition, 1997 and 1998 saw the Chinese government allow an increased level of expression of political views and the promotion of the rule of law. With most democratic states no longer supporting a resolution on China by the 1999 UNCHR session, and the deterioration of the US-China relationship from 1999 to the first half of 2001, there were fewer concessions made by the Chinese government over this time period. Perhaps reflecting its desire to be awarded the 2008 Olympics and achieve WTO accession in 2001, leading up to the 2001 UNCHR session the Chinese government ratified the ICESCR and one month after the session it agreed to a programme of cooperation with the ILO. In 2002 and 2003 further political prisoners were released, all of which had been the subject of lobbying on their behalf by the US and other democratic states and human rights NGOs. During these years the Chinese government also allowed representatives of the Dalai Lama to visit Tibet and discussed the issue of Tibetan autonomy with a representative on another occasion.

Some of these concessions were also timed to facilitate the growing engagement of the US and Chinese governments, an engagement the Chinese government wished to further as it was international recognition of its great power identity. For example, China announced it would sign the ICESCR just prior to President Jiang Zemin's visit to the US in October 1997 (although this also served to appease the EU member states that had decided not to support a resolution on China at the 1997 UNCHR session), and in the wake of this visit accepted visits from US religious leaders to China,

including Tibet, and exiled Wei Jingsheng to the US. In addition, some of the political prisoners released in 2002 and 2003 were timed just prior to high-level US-China meetings, for example, three political prisoners were released two weeks prior to Prime Minister Wen Jiabao's visit to the US in December 2003.

That these concessions were timed to coincide with the decisions of the democratic states on whether they would sponsor a resolution on China, and high level US-China meetings, indicates that they were primarily aimed at stemming the flow of international criticisms of the Chinese government's human rights record and improving relations with the US. The concessions did not reflect an acceptance of the Chinese government that its human rights practices needed to be improved. Further indications of this included the limitations the Chinese government placed on the visits to China of the UN Working Group for Arbitrary Detention in 1997 and the UK Select Committee on Foreign Affairs in 2000, such as delaying permission for the Working Group to visit particular places of detention and preventing UK Committee officials from meeting human rights activists in China. The Chinese government's crackdown on dissent beginning in 1998 and the nature of its legislative changes were other indications that its increased tolerance of political expression in 1997-1998 and promotion of the rule of law were part of the instrumental adaptation socialisation process. The legislative changes that were made did not effectively challenge CCP control of the judicial process. For example, the 1997 Criminal Law replaced "counterrevolutionary crimes" with the equally vague "crimes endangering state security" which continued the arbitrary nature of what defined such crimes. The concessions made in 2002 and 2003 regarding political and religious prisoners in Tibet and the Dalai Lama's representatives, although being welcome developments, were also accompanied by continued reports of abuses of many other Tibetans. This indicates that these concessions cannot yet be considered to be deeper expressions of commitment to improving human rights practices in Tibet.

The argumentative discourses socialisation process involves the target state and its critics arguing over the substance of the criticisms and the target state's justifications

of its human rights record. The Chinese government engaged in this process from 1997 to 2003, as evidenced by the continued publication of White Papers that promoted its preferred interpretation of human rights norms and rebutted particular external criticisms it had received. Over this time period the Chinese government published twelve White Papers addressing human rights issues.<sup>278</sup> Themes included that human rights were generally respected and promoted in China and those who were punished had not had their rights abused as they had broken the law. The human rights priorities of the rights to subsistence and development and the progress made in particular human rights practices were promoted in the White Papers dealing with general progress in human rights. The importance of stability to promote human rights, the use of dialogues and exchanges as the best means to engage in human rights at the international level, and the need for China to follow its own path of human rights development were also promoted in these White Papers.<sup>279</sup> In regards to human rights in Tibet and Xinjiang, the Chinese government highlighted examples of how respect for human rights had improved in these regions since Chinese “liberation”.<sup>280</sup> Continuing the trend in the White Papers published in the latter part of the 1991 to 1997 period, less emphasis was placed on human rights being an internal matter for a state in the 1997 to 2003 White Papers. The most pointed reference to this argument came in the White Paper on human rights in the US where the US government was criticised for interfering in other states’ internal matters under the guise of human

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<sup>278</sup> Nine of these were discussed in this chapter. The other three White Papers covered human rights concerns outside of the scope of this thesis, including labour and social security, poverty reduction in rural China and population policy. See Information Office of the State Council of the People's Republic of China, *China's Population and Development in the 21st Century* (December, 2000 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/21st/index.htm>. Information Office of the State Council of the People's Republic of China, *The Development-Oriented Poverty Reduction Program for Rural China* (October 2001 [cited 29 March 2004]); available from <http://english.people.com.cn/features/PRpaper/pr.html>. Information Office of the State Council of the People's Republic of China, *Labor and Social Security in China* (April 2002 [cited 29 March 2004]); available from <http://www.china.org.cn/e-white/20020429/index.htm>.

<sup>279</sup> Information Office of the State Council of the People's Republic of China, *Fifty Years of Progress in China's Human Rights*. Information Office of the State Council of the People's Republic of China, *Progress in China's Human Rights Cause in 2000*.

<sup>280</sup> Information Office of the State Council of the People's Republic of China, *History and Development of Xinjiang*. Information Office of the State Council of the People's Republic of China, *Tibet's March Towards Modernization*.



rights concerns.<sup>281</sup> The decline in emphasis on the argument that human rights are an internal matter indicates that the Chinese government is continuing to move away from this argument, and possibly towards accepting that it is legitimate to raise concerns about the human rights abuses occurring within a state.<sup>282</sup>

Other Chinese government responses to US government criticism of China's human rights record were also evidence of engagement with the argumentative discourses socialisation process. These responses included publicly disputing the facts of the Department of State's reports, highlighting the priorities of the rights to subsistence and development and the need for stability to realise these rights, and pointing out the hegemonic tendencies and human rights abuses of the US government. Another response was the debate on human rights between Presidents Clinton and Jiang, and its broadcast to a Chinese audience, during Clinton's visit to China in 1998.

According to the spiral model, as the tactical concessions phase progresses the target state's identity, interests and behaviours are expected to increasingly reflect international human rights norms. This is due to the target state engaging increasingly with the argumentative discourses socialisation process and less with the instrumental adaptation process throughout this phase. However, as with the 1991-1997 period of the Chinese government's tactical concessions phase, throughout the 1997 to 2003 period the government was engaging in both instrumental adaptation and argumentative discourses, and it was still not evident that the latter was becoming increasingly dominant. The Chinese government continued to make tactical concessions timed to influence the actions of its critics throughout 1997 to 2003,

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<sup>281</sup> Information Office of the State Council of the People's Republic of China, "Human Rights Record of the United States in 1999".

<sup>282</sup> However, there were at least two exceptions to this. One came in the wake of external criticisms of the repressive measures used by the Chinese government against CDP members from 1998 when the government evoked the state sovereignty principle. The other exception came in the wake of the NATO bombing of the Chinese embassy in Belgrade in 1999 when the Chinese government sought to maximise the resulting increase in nationalism by accusing the US of manipulating the 1989 demonstrators and international opinion on China's human rights record. Once again the Chinese government increased the emphasis placed on the state sovereignty principle in an attempt to deflect international criticism. Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China*, p. 248. Lampton, *Same Bed, Different Dreams: Managing U.S.-China Relations, 1989-2000*, pp. 59-60.

indicating a consistent engagement with instrumental adaptation. It also continued to debate the substance of the criticisms of its human rights record throughout this period, for example, publishing twelve White Papers on human rights and responding to the annual US Department of State reports on human rights in China. This reflects that the Chinese government's dominant identity continued to be that of a great power, defining its interests as the need for international acknowledgement of this status and hence its vigorous efforts to silence its critics, as well as an engagement in important international debates such as those on human rights.

But as found in the 1991 to 1997 period, there were some indications throughout 1997 to 2003 that the Chinese government's identity, interests and behaviours may have been beginning to reflect more of the norms of the international human rights network. Attempts were made to at least confront the systemic nature of some abuses from 1997 to 2003. For example, there was an acknowledgement in publications on the use of torture in 1997 and 1998 that this was an area that needed to be dealt with. In 2001 the Vice-President of the Supreme People's Court admission that there was corruption in the legal system and the Supreme People's Procuratorate admission that the CCP interfered in "sensitive" cases further indicated a concern that this needed to be addressed by at least some senior officials. In 2002 and 2003 the Chinese government introduced various measures to bring about the independence of the justice system such as disciplinary measures and educational and competency standards for judges. Further measures introduced in 2003 to improve the legal system were replacing imprisonment for some crimes with community service and abolishing the custody and repatriation form of detention. In addition, by 2003 there were a number of reports that some police and local officials were beginning to acknowledge the need to handle workers' protests with greater care and the Chinese government's priorities were communicated as being focused on the plights of workers and the rural masses. However, despite these positive measures there were continued reports throughout the 1997 to 2003 period of abuses of the two core rights. This highlights that the above positive developments can only be interpreted at best as an early indication the

Chinese government's identity, interests and behaviours was beginning to reflect more of the norms of the international human rights network.

As was evident in the 1991 to 1997 period, from 1997 to 2003 the Chinese government's dominant identity of being a great power was also reflected in its attempts to influence international human rights norms and their enforcement mechanisms. Some of the attempts to influence the latter were successful. Perhaps the most significant example of this was the Chinese government's success in persuading most of the democratic states to cease their support for resolutions on China at the UNCHR sessions. From 1997 the Chinese government began to participate in bilateral human rights dialogues and technical assistance programmes with these states instead, activities that China had long promoted as its preferred approach to raising human rights concerns. Not only were these democratic states willing to participate in such bilateral activities with China in return for not publicly criticising its human rights record at the UNCHR, these states also themselves promoted that this was the most effective approach to bring about human rights improvements in China. Following the lead of these democratic states, a marked increase in the number of private foundations adopting this approach was evident from 1997. In addition, the UN High Commissioner for Human Rights agreed to engage in a technical cooperation programme with China, although the High Commissioner continued to publicly criticise the Chinese government's human rights record and did so on a number of occasions.

Other examples of the Chinese government successfully influencing the enforcement mechanisms of international human rights norms included its efforts to restrict the activities of some of the international human rights NGOs and campaigners and UN bodies. China prevented HRIC and the Hong Kong Human Rights Monitor from attending the World Bank meeting in Hong Kong in 1999, and its lobbying prevented the Dalai Lama from participating in the World Millennium Peace Summit in 2000 and HRIC being accredited to the 2001 World Conference Against Racism. The Chinese government also successfully persuaded the Australian Prime Minister and Foreign

Minister to refuse to meet with the Dalai Lama during his 2002 Australian visit. In addition, one year prior to the UN Working Group on Arbitrary Detention's visit to China in 1997, the Group modified its activities by delaying the investigation of some non-urgent Chinese cases in an apparent attempt to encourage the Chinese government to allow the visit.

Thus by 2003 the Chinese government had been able to further influence the international human rights network, including bringing about sustained changes to some of its enforcement mechanisms such as the adoption of the bilateral human rights dialogue and technical cooperation programme approaches. The Chinese government had also limited the actions of some of the international human rights NGOs and campaigners and UN human rights bodies. This indicates that by the end of 2003 the Chinese government's great power identity continued to be much more dominant than any identification it may have had with the international community of states that promote and respect human rights. This also clearly highlights that the Chinese government is a case different from those focused on by Risse et al. Unlike these smaller states, China has had an influence on how international human rights norms are enforced. Therefore, in the case of the Chinese government, that part of the constitutive relationship between a target state and international human rights norms that is not focused on by the spiral model must be considered.

### **Conclusion**

From 1997 to 2003 the Chinese government remained in the tactical concessions phase. Throughout this period, many international human rights NGOs continued their focus on human rights in China. NGOs such as AI, HRW and HRIC focused their efforts on documenting instances of abuses in China, disseminating this information to an international audience, as well as lobbying democratic states and UN human rights bodies. Various NGOs focused their efforts on highlighting the abuses of particular ethnic minority groups in China and lobbying democratic states on their behalf. Other

NGOs established by Chinese-born residents of other countries campaigned to highlight human rights abuses in China and some for democratisation. In contrast, the Dui Hua Foundation quietly lobbied Chinese officials on behalf of particular political prisoners. In addition, reflecting the adoption by many democratic states of China's preferred dialogue and cooperation approach, the numbers of private foundations engaging in legal projects and promoting village-level democratic elections with the Chinese government markedly increased from 1997.

The efforts of many of these NGOs in publicising and lobbying about human rights abuses in China meant that throughout 1997 to 2003 democratic states continued to receive reports on the Chinese government's practices in the area of the two core rights. Despite this, and general NGO opposition to the dialogue approach replacing the UNCHR resolution approach, most democratic states had ceased their support for a resolution on China at the UNCHR by 1998 and agreed to participate in bilateral dialogue meetings and/or technical cooperation programmes with the Chinese government instead. This reflected the growing trade relationships that many of the states were experiencing with China, as well as China's growing international stature and the frustration that no resolution on China had ever been passed at the UNCHR. These activities came to dominate the human rights policies of most democratic states in regards to China, although they were accompanied by the occasional raising of particular human rights concerns by their leaders and embassy officials in private discussions with their Chinese counterparts. The private and confidential annual Australia-China human rights dialogue meetings between middle-level officials highlight the limited nature of this approach in pressuring the Chinese government to bring about human rights improvements. The Australia-China TCP exemplifies the attempts of these small-scale programmes to develop and provide training to Chinese officials in various agencies on practices that have an impact on particular human rights in China, largely in isolation from other such programmes.

In contrast to most other democratic states, the US government did not entirely cease its support for resolutions on China at the UNCHR by 1998. As the sole superpower

from the early 1990s, and in response to pressures from human rights NGOs and various internal groups, the US government retained and exercised its ability to publicly criticise the Chinese government's human rights record at various times throughout 1997 to 2003. This included supporting a resolution on China in 1997 and from 1999 to 2001 at the UNCHR. However, the US government also clearly made attempts to appease the Chinese government on other occasions, recognising China's growing importance as an international actor and trade partner with the US. These attempts included the US government's willingness by 1997 to engage in presidential summits and bilateral human rights dialogue meetings with the Chinese government. Despite these attempts, US support for resolutions on China at the UNCHR from 1999 to 2001 and a number of other divisive issues weakened the US-China relationship during these years. In response to a number of these, the Chinese government suspended the bilateral dialogue process with the US as punishment. In the wake of the terrible events of September 11, 2001 in the US, security concerns in the form of anti-terrorist measures became more dominant in the US-China relationship. This ushered in an era of closer relations and US government human rights concerns were discussed more in private bilateral meetings with Chinese leaders and officials than in public multilateral forums in 2002 and 2003.

Responding to NGO pressures and the concerns of some of its member states, various UN human rights bodies actively pressured the Chinese government over its human rights record during the 1997 to 2003 period, in particular the UN High Commissioner for Human Rights. However, the UNCHR continued to decline in its ability to publicly highlight the human rights record of the Chinese government. The cessation of the support of most democratic states for a resolution on China by 1998 at the UNCHR meant that this body became largely reliant on US government will to bring about such a resolution. In conjunction with the limits the Working Group on Arbitrary Detention placed on its work leading up to its 1997 visit to China, these developments highlight the influence that the Chinese government has been able to exercise to limit the degree of public criticism on its human rights record.

Other examples of the influence the Chinese government was able to have over the enforcement mechanisms of international human rights norms included its success in preventing a number of NGOs and the Dalai Lama from attending meetings of international bodies. The Chinese government also responded to the transnational human rights network by making tactical concessions leading up to and in the wake of the UNCHR sessions and at times that coincided with meetings with high level officials from democratic states, particularly those from the US. In addition to participating in bilateral human rights dialogues and cooperation programmes, these concessions included releasing various high profile political prisoners, signing and ratifying the ICESCR, signing the ICCPR, agreeing to resume discussions with ICRC and accepting visits from the UN High Commissioner for Human Rights and the Dalai Lama's representatives. Internally the Chinese government promoted the rule of law and allowed for the greater expression of political views in 1997 and 1998.

These concessions highlight that China was practising instrumental adaptation as they did not indicate the Chinese government was convinced of the need to bring about systemic improvements to its human rights practices, despite some improvements in legislation and a number of attempts to improve the fairness of the justice system. The ongoing reports of human rights abuses in China over the 1997 to 2003 period, particularly the repressive crackdown on organised dissent from late 1998, were evidence of this. The Chinese government continued to publish White Papers on human rights and respond to outside criticisms, promoting its preferred interpretations of international human rights norms and debating the substance of outside criticisms. This indicates that China was also participating in argumentative discourses throughout the 1997 to 2003 period as it was actively engaged in debating the priorities of international human rights norms and the content of the criticisms it was receiving. Further evidence of engagement with this socialisation process were the public acknowledgements by some senior officials and in some publications of the need to tackle the use of torture in detention centres and corruption in the justice system.

An important characteristic of phase three of the spiral model, and a prerequisite for the transition to phase four, according to Risse et al. is the mobilisation of domestic opposition groups. The Chinese government's crackdown on attempts to organise dissenting groups from late 1998 limited the ability of such groups to further mobilise. However, there were some reports that large-scale protests over the closing of state-owned enterprises and non-payment of wages were beginning to attract a more moderate response from some officials by the end of 2003. Reflecting the scale of these protests, the Chinese government announced in 2003 that the plight of these workers, and the rural masses, would be its priority.

By the end of 2003 the Chinese government was continuing to engage in both the instrumental adaptation and argumentative discourses socialisation processes, but it was not evident that the latter was becoming increasingly dominant throughout the 1997 to 2003 period of the tactical concessions phase. It is expected by the spiral model that argumentative discourses become the dominant socialisation process as a target state nears its transition to phase four, prescriptive status. Thus, according to the spiral model, the Chinese government was not nearing the end of phase three by the end of 2003. This reflects that the Chinese government's dominant identity continued to be that of a great power, defining its interests as being the need to silence its critics while still engaging in international human rights debates. This identity was also reflected in the efforts made to further influence the enforcement mechanisms of international human rights norms. Thus China is clearly different to the cases studied by Risse et al. and requires that part of the constitutive relationship between a target state and international human rights norms not addressed by the spiral model to be focused on. In the following chapter this will be further discussed, along with an exploration of explanations other than those offered by the spiral model to account for changes in the Chinese government's human rights practices.



## **Chapter Seven - Discussion of Alternative Explanations**

### **Introduction**

It has been argued so far in this thesis that the spiral model has provided a valid explanation of many of the responses of democratic states, international human rights NGOs and UN human rights organisations to reports of human rights abuses in China, as well as the actions of domestic opposition groups, and the subsequent responses of the Chinese government from the time of the “anti-rightist” campaign in 1957-58 to 2003. In conjunction with domestic human rights groups and individual activists, democratic states, international human rights NGOs and UN human rights organisations formed a transnational human rights network after the international dissemination of information on the abuses in Beijing in June 1989 placed human rights in China on the international agenda. This network pressured the Chinese government to deepen its engagement with debates on international human rights norms and make tactical concessions, influencing the government to progress to phase three of the model.

The Chinese government experienced both the instrumental adaptation and argumentative discourses socialisation processes throughout the 1989 to 2003 period. Instrumental adaptation was indicated by the Chinese government releasing political prisoners, accepting visits from a number of UN human rights bodies and state human rights delegations, and signing or ratifying UN Conventions. These concessions were generally timed to influence the decisions of other states regarding their support for a resolution on China at the UNCHR, and the US government’s renewal of China’s MFN status and whether to proceed with a presidential summit with China. Thus these concessions represented attempts to silence the Chinese government’s critics rather than reflecting an acceptance of the importance of improving human rights practices. The Chinese government’s engagement in argumentative discourses was indicated by its arguments over the substance of the criticisms and its justifications of its human rights record. These came in the form of the human rights White Papers

outlining the Chinese government's preferred understandings of international human rights norms and refuting its critics, as well as engaging in and hosting international forums on human rights and making statements in direct response to its critics.

According to the spiral model, it is to be expected that a target state's identity, interests and behaviours will increasingly reflect international human rights norms as the tactical concessions phase progresses. This is because the target state engages increasingly in argumentative discourses while practising less instrumental adaptation throughout phase three. This was not the case for the Chinese government by the end of 2003, reflecting that its great power identity continued to be dominant. The great power identity defined the Chinese government's interests as the need to silence its critics and be acknowledged as a state with great power status, as well as the need to engage with important international debates such as those on human rights. There were only a number of indications that the Chinese government's identity, interests and behaviours may have been starting to reflect more of the international human rights norms. These included the few official acknowledgements of and attempts to deal with the problems of the continued use of torture, corruption in the judicial system, and the growing workers' protests. That reports of human rights abuses in China continued to be made by 2003 also highlighted the limited nature of these concessions. Thus by the end of 2003 the Chinese government could not be considered to be nearing the end of phase three of the spiral model.

The Chinese government's dominant great power identity was also reflected in its attempts to influence international human rights norms and their enforcement mechanisms throughout the 1989 to 2003 period. By the end of that period it had not just experienced the socialisation processes of international human rights norms but had also had an impact on the transnational human rights network through its influence on the enforcement mechanisms of international human rights norms. In particular the Chinese government's preferred methods for communicating human rights concerns, bilateral human rights dialogues and technical cooperation programmes, had been adopted by many members of the transnational human rights

network, including most of the democratic states, since the late 1990s. This highlights the possible influence of a target state on these norms, which is the part of the constitutive relationship between a target state and international human rights norms that the spiral model does not focus on.

Given that the spiral model does not focus on the influence a target state may have on international human rights norms or its enforcement mechanisms, it is important to explore whether there are explanations other than the spiral model that can account for this. It is also important to consider if explanations other than the spiral model can in general more plausibly account for changes in the Chinese government's human rights responses and practices. As discussed in Chapter Two, Risse et al. explored whether neorealist and modernisation theories could more plausibly account for variation in a target state's human rights practices than the spiral model. They found that in their case studies these theories were incomplete explanations of this variation.<sup>1</sup> These theories will be further explored in this chapter in order to ascertain whether they are better explanations than the spiral model, or if at least elements of these can add to the spiral model's explanations. The potential for a democratisation process in China, based on changes within China that had their genesis in the modernisation programme, will then be discussed.

### Neorealism

According to neorealists, the decisive factor in bringing about human rights improvements in a target state is the influence of great powers, those states with the most economic and military power. The transnational human rights network is seen as promoting the interests of the great powers and thus the degree to which the target state will respond to the network's pressures will depend on the degree to which the

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<sup>1</sup> Thomas Risse and Stephen C. Ropp, "International Human Rights Norms and Domestic Change: Conclusions," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), pp. 267-70.

great powers promote international human rights norms.<sup>2</sup> This is in contrast to the spiral model's emphasis on the role of international human rights norms in persuading target states to change their human rights practices. However, this is not to suggest that the spiral model does not account for the influence of great powers. The spiral model does so in its acknowledgement of the influence of material as well as ideational factors on target state behaviours, including the influence of great powers. But these powers are seen as promoting human rights norms to target states only to the degree that transnational advocacy networks have been able to persuade them to do so.<sup>3</sup>

Since the end of the Cold War the international system has been dominated by a number of powers. In terms of military and economic power, the US has been clearly the sole superpower, and a democratic state whose identity is linked to a concern for human rights. The EU and Japan have also been great powers in the international system in the period from 1989 to 2003, reflecting their significant economic power, and the former being a group of democratic states whose identities have also been particularly linked to a concern for human rights. In terms of pressures being placed on the Chinese government to improve its human rights record, the US and the EU have been the most prominent state actors, both participating in and initiating multilateral efforts. Japan has been less prominent, reflecting the importance it has placed on its relationship with China and the lower priority of human rights in its foreign policy compared with other democratic states. Therefore, to gauge the explanatory power of neorealism in regards to changes in the Chinese government's human rights practices, the actions of the US government and the EU concerning China's human rights practices from 1989 to 2003 will be focused on in this

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<sup>2</sup> Stephen D. Krasner, "Sovereignty, Regimes, and Human Rights," in *Regime Theory and International Relations*, ed. Volker Rittberger and Peter Mayer (Oxford: Clarendon Press, 1995), pp. 140-41, 166-67. See also Stephen D. Krasner, "Power Politics, Institutions, and Transnational Relations," in *Bringing Transnational Relations Back In: Non-State Actors, Domestic Structures and International Institutions*, ed. Thomas Risse-Kappen (Cambridge: Cambridge University Press, 1995), 257-79.

<sup>3</sup> Thomas Risse and Stephen C. Ropp, "International Human Rights Norms and Domestic Change: Conclusions," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 269.

discussion. Any subsequent responses from and changes in human rights practices of the Chinese government to these actions will also be examined here.

In the wake of the Tiananmen Square massacre on 4 June 1989, the US government responded to the media reports of the events in Beijing that had transfixed many Americans by imposing a number of sanctions. These included suspending weapons sales to China and meetings between US and Chinese military leaders, and indicating Chinese students seeking asylum in the US would be sympathetically dealt with. Other state actors, including the EU, seemed to follow the US lead and applied similar sanctions within a week. Further sanctions were applied by the US government later in June, including the suspension of meetings between high level US and Chinese government officials, but only after NGOs and various Congress members had pressured the US administration to do so and other democratic states had been consulted. The EU subsequently applied similar sanctions. NGO pressure on the US government, and the willingness of the US to consult with other states before taking further action, indicates that despite the US government's early leading role amongst democratic states in applying sanctions, it began to act as part of the transnational human rights network and not as its leader.

It became evident throughout the early 1990s that the US government would continue to be a participant in the transnational human rights network in regards to human rights in China, but often in response to internal and NGO pressures. From 1990 to 1994 internal US concerns for human rights in China were primarily expressed through the MFN renewal debate. Various Congress members, informed by human rights NGOs, had been the dominant actors pushing the US administration to link human rights improvements with China's MFN status renewal. These actors succeeded in persuading Congress and the US administration to renew China's MFN status with human rights conditions attached in 1990 and 1993. In 1991 and 1992 President Bush used his power of veto to prevent such conditions being attached. In 1994 President Clinton announced that China's MFN status would no longer have human rights conditions attached to it, and in 1999 China was awarded permanent

normal trading relations status communicating that US-China trade relations would not be linked to US government concerns for human rights in China. Despite this lack of US presidential support, the transnational human rights network continued to be active throughout the 1990s and the Chinese government continued to respond to network actors other than the US government. This indicates again that the US government was a participant in the network and not its leading actor.

There were other instances throughout the first half of the 1990s where the US government participated in the transnational human rights network without taking the leading role. These instances primarily concern US support for the resolutions on China's human rights record that were sponsored at the UNCHR in 1990, from 1992 to 1997 and from 1999 to 2001. The US government did not generally take the sole lead in lobbying and sponsoring resolutions on China at the earlier UNCHR sessions. Other governments were equally active in the 1990, 1992, 1993 and 1994 UNCHR sessions, if not more so, in particular the EU and Australia. But prior to the 1995 UNCHR session, and in the wake of the decision to delink China's MFN renewal status and human rights improvements, the US government lobbied vigorously to generate support for a resolution on China. For the first (and only) time, in 1995 China's no-action motion was not passed and so the resolution was voted on, although the resolution was subsequently defeated by one vote. It is likely that the US lobbying prior to the UNCHR session led to the defeat of the no-action motion, indicating the influence of the US government over other states. However, the following year the US delayed its lobbying efforts and China's no-action motion subsequently passed by a comfortable margin.

By 1997 some of the other democratic states were refusing to support a resolution at the UNCHR, including the EU and Australia, leaving the US government as the dominant supporter of the resolution. Thus the EU and other democratic states were starting to change the way they were expressing their concerns regarding human rights in China and clearly not taking their lead from the US. These states were, in fact, adjusting to the preferences of the Chinese government by adopting the bilateral

human rights dialogue and technical cooperation programme process instead of supporting resolutions on China at the UNCHR. The US government briefly joined this coalition in 1998, refusing to support a resolution on China, while also showing a preference for the bilateral dialogue approach. But in 1999, in response to Congress and NGO pressures, the US government sponsored a resolution on China at the UNCHR despite the continued refusal of most other democratic states to support it. The US continued its support for resolutions on China at the UNCHR in 2000 and 2001, but not in 2002 and 2003, reflecting that the US government's priorities had become focused in these years on attracting China's support for various security initiatives, including its anti-terrorist campaign.<sup>4</sup> Thus from 1989 to 2003 the US government had participated in the transnational human rights network, occasionally taking the lead, but more often not seeking to take on that role.

The EU was more a participant than a leader of the transnational human rights network from 1989 to 2003, although it was one of the more active state actors at the UNCHR in the early 1990s regarding resolutions on China. The commitment of some EU members to pressuring the Chinese government over its human rights record also began to waver just months after the 1989 massacre. Even before most of the sanctions applied in the aftermath of the massacre had been lifted in October 1990 by the EU, individual members were deviating from the coordinated response. For example, in early 1990 both the French and Italian governments offered loans to the Chinese government. By 1991 trade and economic issues were dominating bilateral relations between EU members and China, with human rights concerns being predominantly raised in high-level meetings as only one item amongst busy agendas. By 1995 the EU, and particularly its members France and Germany, were publicly expressing that the discreet, behind-closed-doors approach of dialogue meetings would most likely lead to progress on human rights in China. Canada, Australia, Norway,

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<sup>4</sup> The US did support a resolution on China in early 2004, however, indicating that some concern for human rights in China would continue to be expressed by the US government. Patrick Goodenough, "US to Target Chinese Rights Abuses Again" (23 March) (CNSNews.com, 2004 [cited 23 March 2004]); available from <http://www.cnsnews.com/ViewForeignBureaus.asp?Page=%5CForeignBureau%5Carchive%5C200403%5CFOR20040323a.html>.

Brazil and Japan agreed with the EU. The EU's significant power in the international system may have meant that it had influenced these states to cease their support for resolutions on China. However, a more likely explanation is that each of these states had been primarily motivated by their growing economic relationships with China, and subsequently the Chinese government's preference for bilateral human rights approaches. Thus the EU's decision in 1997 to cease its support for future resolutions on China at the UNCHR, and its adoption of the bilateral human rights dialogue approach, placed it amongst a growing coalition of democratic states bowing to China's preferred human rights approach. Therefore, the EU was a participant in the transnational human rights network, being particularly active in the early 1990s by sponsoring resolutions on China at the UNCHR, but also showing that it was not willing to be a leader of the network in case this jeopardised its members' growing trade relationships with China.

An examination of the actors in the transnational human rights network the Chinese government responded to throughout 1989 to 2003 also indicates that China was not just responsive to the US government and the EU. It is clear that the Chinese government did single out the US for particular criticism in response to international criticisms of its human rights record from 1989 to 2003. For example, there were numerous articles in the English language *Beijing Review* criticising the US government's human rights record and Chinese government officials highlighted the human rights violations of the US government at various multilateral forums. In response to the annual publications of the US Department of State's report on human rights in China, the Chinese government published its own critiques of the reports and highlighted the human rights abuses of the US. But other international actors were also singled out for public criticism by the Chinese government. For example, AI and HRW were accused of being prejudiced against China at various times throughout the 1990s. The UN Working Group on Arbitrary Detention's conclusions in its 1993 and 1994 reports on China were labelled as political. The Chinese government even restricted the activities of some of the international human rights NGOs and campaigners through its effective lobbying. For example, the Chinese government



hampered the participation of NGOs at the Fourth World Conference on Women held in Beijing in 1995. HRIC and the Hong Kong Human Rights Monitor were prevented from attending the World Bank meeting in Hong Kong in 1997 and the Dalai Lama was prevented from participating in the World Millennium Peace Summit in 2000. HRIC was targeted once again in 2001 when it was prevented from being accredited to the 2001 World Conference Against Racism. Thus the Chinese government was clearly responding to the activities of other external critics, not just the US government and the EU, throughout the 1989 to 2003 period.

Other examples that indicate the Chinese government was putting much effort into responding to external critics other than the US government and the EU included its lobbying of various UN human rights bodies. The Chinese government put a lot of effort into preventing draft resolutions on its human rights record being voted on at the annual UNCHR and Sub-Commission sessions. Chinese officials lobbied the representatives of many different countries, not just the US and the EU, in attempts to either prevent a draft resolution being sponsored or to gather support for a no-action motion preventing a resolution from being voted on. The Chinese government also put much effort into lobbying attempts to limit the mandates of some of some of the UN human rights bodies, resulting in limitations being made to the mandates of the UNCHR Sub-Commission in 1993 and the Working Group on Arbitrary Detention in 1997.

Many of the tactical concessions made by the Chinese government from 1990 to 2003 were also offered to appease a range of critics of China's human rights record, not just the US government and the EU and its members. For example, the Chinese government invited human rights delegations from Australia in 1991 and 1992. Just prior to the 1993 and 1994 UNCHR sessions the Chinese government released a number of prominent prisoners, aimed at appeasing the range of democratic states that were indicating their support for a resolution on China. Wei Jingsheng had also been released for the first time in 1993, just prior to the IOC's vote on the city to host the 2000 Olympics. In addition, a number of Tibetan political prisoners were released in

2002 and 2003 other than those whose releases were timed with US government concerns in mind.

Some of the tactical concessions, however, were clearly primarily aimed at appeasing the US government. Just prior to the US Congress vote on the status of Chinese students in the US in 1990, and the US government's decision to cease its total opposition to World Bank loans to China, the Chinese government claimed it had released 573 people detained for their involvement in the June 1989 demonstrations. Later that year, at the time the US government was considering the renewal of China's MFN status, the Chinese government released a further 211 detainees. In 1994, just before the US government's decision on China's MFN status renewal, two political prisoners who had been involved in the 1989 demonstrations were released. Just after the US-China summit in 1997, Wei Jingsheng was released and exiled to the US. The Chinese government allowed for a discussion on human rights between Presidents Clinton and Jiang and a speech by Clinton to be broadcast in China in 1998. Two Tibetan political prisoners were released from prison in 2002 just prior to President Bush's visit to China and Vice President Hu Jintao's visit to the US. Representatives of the Dalai Lama were invited to meet with Chinese officials to discuss Tibetan autonomy and four Tibetan prisoners were released in early 2003, seemingly in an attempt to dissuade the US government from sponsoring a resolution on China at the 2003 UNCHR session. Two democracy activists were released from prison and exiled to the US in late 2002 and early 2003, and in late 2003 a Chinese-born US citizen and three internet activists were released from prison, the latter three just prior to Prime Minister Wen Jiabao's visit to the US. This certainly indicates the importance to the Chinese government of its relationship with the US government.

Other tactical concessions were aimed at appeasing the EU and some of its members. For example, the Chinese government invited human rights delegations from France and the UK in 1991 and 1992 respectively, and allowed an EU delegation of legal experts to visit China in 1998. Just prior to UK Prime Minister Blair's visit to China in 1998, and just after the UN High Commissioner for Human Rights' visit to China,

the Chinese government announced that it would sign the ICCPR. Further tactical concessions, other than releases of political prisoners, were offered and made by the Chinese government to appease both the US government and EU member states. For example, the Chinese government announced its intention to sign the ICESCR and ICCPR, resume discussions with the ICRC and accept a visit from the UN High Commissioner for Human Rights in 1997. The intention to carry out these concessions, coupled with China's intention to engage with bilateral human rights activities, was used to persuade primarily the US government and EU member states to cease their support for a resolution on China at the UNCHR in 1997. These concessions indicate that not just the military and economic power of the US government was important to the Chinese government, but that the significant economic power of the EU also mattered. However, the concessions aimed at both the US government and the EU were not the only ones made by the Chinese government throughout the 1990s and early 2000s.

Most of the Chinese government's White Papers on human rights were tactical concessions in response to all of its Western critics, not just the US government and the EU, with the exception of the Paper devoted to the human rights record of the US government. These Papers were also a product of the official discourse on human rights that began to be encouraged in 1990 in an attempt to counter-attack both internal and external critics, develop China's own preferred interpretations of human rights theory and enhance the legitimacy of CCP rule to Chinese citizens. Legislative changes made from 1994 that attempted to make Chinese law reflect at least some of the content of international human rights treaties and conventions were also responses to Western critics in general, and in particular to China's international investors to show them efforts were being made to protect their financial interests through the development of a rule of law. For example, the 1994 Prison Law, the 1995 Law on Judges, Law on Procurators and the People's Police Law, and the 1996 Lawyers' Law had some emphasis on improving the judicial system and respect for rights of detainees. The 1997 Criminal Law attempted to establish more clearly what acts could

be considered crimes.<sup>5</sup> Further changes in 2002 and 2003 were attempts to bring about an independent judicial system, such as disciplinary procedures for corrupt judges and educational standards for judges, prosecutors and lawyers.<sup>6</sup> In addition, the Chinese government participated in human rights dialogues and technical cooperation programmes with a range of democratic states, UN bodies and private foundations, not just the US government and the EU. All of these actions highlight that the Chinese government was not just responding to the criticisms and actions of the US government and the EU as great powers, but to those of other state and non-state actors as well.

Other measures taken by the Chinese government were primarily in response to the concerns of its domestic critics. In the aftermath of the June 1989 crackdown in Beijing, the Chinese government attempted to alleviate the suffering of the rural masses and workers caused by the economic modernisation programme. Initiatives designed to address the increasing unemployment rate and some social security programmes were introduced from late 1989 but with minimal results, although by 1991 the Chinese economy was showing signs of improvement. This improvement did not alter the poverty suffered by many Chinese and by the end of the 1990s, with all state-owned enterprises facing closure, millions were facing unemployment. In an attempt to prevent social unrest across the country and increase the political legitimacy of the CCP, the Chinese government allowed for greater public debate on political views in 1997 and 1998 and further promoted the rule of law. In 2000 the Chinese government took further measures in response to domestic concerns, this time with attempts to clamp down on official corruption by convicting a number of high-ranking

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<sup>5</sup> Although a prominent exception to this was the replacing of “counterrevolutionary crimes” with “crimes endangering state security” that did not include definitions of what would constitute such crimes. Amnesty International, *Amnesty International Report 1998: China* (1998 [cited 30 September 2003]); available from <http://www.amnesty.org/ailib/aireport/ar98/asa17.htm>. Amnesty International, *Amnesty International Report 1999* (1999 [cited 16 January 2004]); available from <http://www.amnesty.org/ailib/aireport/ar99/asa17.htm>. Human Rights Watch, *Human Rights Watch World Report 1998: China and Tibet* (1998 [cited 29 September 2003]); available from [http://www.hrw.org/worldreport/Asia-04.htm#P337\\_94962](http://www.hrw.org/worldreport/Asia-04.htm#P337_94962).

<sup>6</sup> However, reports continued of CCP interference in the justice system, the use of torture to gain confessions that were accepted as evidence, and those on trial being denied access to their lawyers. Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet* (2003 [cited 16 January 2004]); available from <http://hrw.org/wr2k3/asia4.html>.

officials of corruption and introducing some regulations to try to prevent corruption in the legal system. With Hu Jintao becoming President and Wen Jiabao becoming Prime Minister in 2003, the Chinese government put much effort into appearing to be concerned and responsive to the poverty stricken rural masses and unemployed and unpaid workers. In addition, in response to a public outcry over a brutal murder in a custody and repatriation centre, in 2003 this form of administrative detention that had abused the rights of millions including homeless children was reported to have been abolished.

Clearly the Chinese government felt compelled to respond to many of its critics, not just the US government and the EU, throughout the 1989 to 2003 period. Both the US government and the EU were also more participants in the transnational human rights network than its leaders, although the US government occasionally adopted a leadership role with varying degrees of success. However, the US government and the EU were both able to elicit tactical concessions from the Chinese government aimed at appeasing these states on various occasions, reflecting the military and economic power of the US and the economic power of the EU. This much is consistent with neorealism. But neorealism cannot account for the efforts the Chinese government put into responding to its other less powerful critics. The changes in China's human rights practices from 1989 to 2003 were not brought about solely due to the promotion of international human rights norms by the US government and EU member states.

The spiral model's acknowledgement of the influence of material as well as ideational factors on the Chinese government's behaviour accounts for more of China's changes in human rights practices than neorealism. The model acknowledges the influence of the US government over other actors in the transnational human rights network, and the Chinese government itself, on some occasions. In addition, it also acknowledges the influence that the EU was able to exercise in persuading the Chinese government to make a number of tactical concessions. But the spiral model also accounts for the influence of international human rights norms and other actors of the transnational human rights network over the US government as sole superpower and their ability to

persuade it to respond to human rights abuses in China. Therefore, the spiral model provides a more comprehensive explanation of the changes to the Chinese government's human rights practices than neorealism. However, when the influence of the Chinese government on the transnational human rights network is focused upon, power considerations of realist and neorealist explanations become more pertinent.

Power considerations need to be taken into account to explain the impact the Chinese government has had on some of the enforcement mechanisms of international human rights norms. The Chinese government's dominant great power identity can explain its desire to influence international human rights norms and their enforcement mechanisms, but cannot explain the responses of the state actors of the transnational human rights network to the Chinese government's attempts to influence them. The impact that the Chinese government has had on the enforcement mechanisms of international human rights norms has been primarily due to China's growing economic power as well as its permanent membership of the UN Security Council. Due to pressures from the Chinese government, many of the democratic state actors, including the EU, acquiesced to its wishes and ceased to support a resolution on China at the UNCHR by 1998. The Chinese government had been able to particularly link its growing economic relationships with these states to the means by which these states would raise their human rights concerns. These democratic states subsequently showed that they were willing to forgo their support for multilateral actions on human rights in China at the UNCHR. This reflected state decision making that ultimately prioritised the national interest, largely defined as promoting their own economic interests, over considerations such as human rights. Maximising economic interests, and minimising chances that these interests would be threatened, were clearly the priorities for many of the democratic states by 1998. Thus the power considerations of realism and neorealism help to explain the influence the Chinese government has had on the enforcement mechanisms of international human rights norms.

However, the power explanations of realism and neorealism must be tempered by highlighting that democratic states did continue to raise human rights concerns with

the Chinese government, even though the means through which this was achieved had changed from multilateral to bilateral, reflecting the Chinese government's preferences. The Chinese government did not use its power to pressure these states to cease all emphasis on human rights in their bilateral relationships. This is likely to have been because the identities of these liberal states as promoters of international human rights norms could not have accepted this, and the significant power of the EU and its larger members meant that it had the weight to promote at least some emphasis on human rights in its bilateral relationship with China. For the Chinese government to have pressed for no emphasis on human rights in its bilateral relationships would also have been inconsistent with its great power identity and thus its acceptance of an engagement in debates on international human rights norms. Therefore, that human rights have remained as some part of the bilateral relationships between the Chinese government and the democratic states can be explained by neorealism insofar as the Chinese government is likely to have acknowledged that the significant power of the EU and its larger members would mean there would need to be some emphasis on human rights in its relations with these states. But it is also explained by constructivism in that the identity of the EU as a promoter of international human rights norms, and the identity of the Chinese government as a great power that engages in human rights debates, meant that the interests of both states reflected a desire to have some emphasis on human rights in their bilateral relationship.

### **Modernisation Theories**

Another potential alternative explanation to the spiral model for changes in the Chinese government's human rights practices from the time of greater international attention to human rights abuses in China in 1989 to 2003 comes from modernisation theorists. Some of these theorists argue that there is a correlation between economic development and democratisation.<sup>7</sup> In the context of the discussion here, it is the

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<sup>7</sup> See discussions in Viviane Brachet-Marquez, "Explaining Sociopolitical Change in Latin America: The Case of Mexico," *Latin American Research Review* 27, no. 3 (1992), pp. 111-12. Axel Hadenius, *Democracy and Development* (Cambridge: Cambridge University Press, 1992), p.78. Seymour Martin

accompaniment of democracy with the establishment of the rule of law that would provide for the legal protection of the two core rights that are focused on in this research that is critical.<sup>8</sup>

Whether modernisation theories are a better explanation of changes in the Chinese government's behaviour than the spiral model or not will be explored here in two separate discussions. The first will explore the modernisation theory that emphasises the increased political participation of the middle class as the link between economic development and democratisation. This explanation will be explored in the context of the nature of the political participation of the middle class in China, and whether such a theory explains the positive changes in the Chinese government's human rights practices throughout the 1989 to 2003 period. This section will also include a discussion on any indirect impact China's modernisation programme may have had on the changes to the Chinese government's human rights practices over this period. The second discussion will focus on legislative and electoral changes within China during the 1989 to 2003 period, as well as the growth of cooperative interest groups in rural areas and the growing protests of workers. None of these changes were caused by any increase in political participation of the middle class even though all had causes linked to China's modernisation programme. By the end of 2003 clearly these changes were not enough to have brought about national democratisation. However, if these developments continue they may yet hold the potential for a democratisation process in China.

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Lipset, "Some Social Requisites of Democracy: Economic Development and Political Legitimacy," *American Political Science Review* 53, no. 1 (1959), 69-105. Scott Mainwaring and Abinal Perez-Linan, "Levels of Development and Democracy: Latin American Exceptionalism, 1945-1996," *Comparative Political Studies* 36, no. 9 (2003), p. 1034.

<sup>8</sup> Ersson and Lane highlight that part of the intrinsic value of democracies is that they institutionalise the protection of human rights. Svante Ersson and Jan-Erik Lane, "Democracy and Development: A Statistical Exploration," in *Democracy and Development: Theory and Practice*, ed. Adrian Leftwich (Cambridge: Polity Press, 1996), p. 45.



### Modernisation Theories and the Chinese Middle Class

According to many modernisation theorists, the nature of the correlation between economic development and democratisation is that economic development brings about political, cultural and societal changes that lead to democratisation. Some see these cultural and societal changes as being an increased awareness of political affairs through higher educational and literacy levels and increased exposure to the media, leading to greater political participation. The middle class is seen as the group most likely to demand an increasingly active role in the political system.<sup>9</sup>

To ascertain the explanatory power of this particular modernisation theory in regards to the Chinese government's behaviour over the 1989 to 2003 time period, it is necessary to explore the degree to which a middle class has been established in China and the degree to which this class has changed the nature of its political participation. Under Deng Xiaoping's leadership, China commenced a modernisation programme in 1978. China continued to achieve rates of economic growth from this time to 2003 such that it can be considered to have continued along a path of economic development throughout this period.<sup>10</sup> Since the late 1970s this development has clearly led to the growth and prosperity of particular groups of people. An Chen categorises those that have prospered under economic development in China as the government officials and CCP cadres who have become especially wealthy through illegal means of rent seeking and predation, the bourgeoisie or owners of 'relatively large capital', and the entrepreneurial middle class in China.<sup>11</sup> The latter category is defined according to those families with an income of between 100,000 and 700,000 yuan and

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<sup>9</sup> Hadenius, *Democracy and Development*, p. 78.

<sup>10</sup> From 1978 to 1989, China's GDP growth rate was 9.5 percent per annum. From 1989 to 2001, China's GDP growth rate was 9.3 percent per annum. People's Daily Online, *China's GDP to Exceed 10 Trillion Yuan Expected* (20 October 2002 [cited 28 May 2004]); available from [http://english.peopledaily.com.cn/200209/20/eng20020920\\_103571.shtml](http://english.peopledaily.com.cn/200209/20/eng20020920_103571.shtml). In 2002 and 2003 China's growth rates were 8 percent and 9.1 percent respectively. Department of Foreign Affairs and Trade, *People's Republic of China: Trade and Investment* (2004 [cited 30 May 2004]); available from <http://www.dfat.gov.au/geo/fs/chin.pdf>.

<sup>11</sup> An Chen, "Capitalist Development, Entrepreneurial Class, and Democratization in China," *Political Science Quarterly* 117, no. 3 (2002), pp. 408-9.

includes small entrepreneurs and business people (mostly individual business households), many contract-based SOE managers, senior scientists, stockbrokers, estate agents, senior employees in some financial institutions, managers and white-collar employees in foreign and large private companies, and some special professionals such as lawyers, accountants, singers, fashion models, designers, and athletes.<sup>12</sup>

In 2002 there were estimated to be between 35 and 45 million people in China in this middle class, which equated to nine to eleven percent of people in urban areas but only four percent across China.<sup>13</sup>

Thus towards the end of the 1989 to 2003 period the middle class in China was still relatively small in numbers and it is also not at all clear that the middle class had homogenous political preferences in support of democratisation during this time period. Neither is it evident that the middle class has been the primary force that has persuaded the Chinese government to alter its human rights practices over this period.

It is particularly far from clear that the majority of Beijing's middle class was calling for democratisation during the so-called "Democracy Movement" in 1989. Members of the middle class, in particular office workers, did join the mass demonstrations in

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<sup>12</sup> Ibid. pp. 410-11.

<sup>13</sup> Ibid. p. 410. This estimate of four percent of total population is consistent with the findings of a Chinese Academy of Social Sciences survey released in January 2004 regarding China's middle class. In contrast, another CASS report in April 2004 estimated that 19 percent of China's population were in the middle class family income range. This highlights the difficulty of assessing and defining the middle class but for the purposes of this discussion it can clearly be concluded that the middle class in China is still relatively small. Benjamin Robertson, *Defining China's Evolving Middle Class* (Aljazeera, 29 April 2004 [cited 24 May 2004]); available from <http://english.aljazeera.net/NR/exeres/DB4E1E48-23E5-45F2-A3E3-5911E66C057A.htm>. What is more critical for the discussion here is the political motivations of the middle class in China and An Chen's analysis of this has been particularly insightful. The categories of positions included in An Chen's middle class definition are also consistent with the categories most often used in middle class analyses – 'urban white-collar workers, professionals, and business owners'. Neil A. Englehard, "Democracy and the Thai Middle Class: Globalisation, Modernisation, and Constitutional Change," *Asian Survey* 43, no. 2 (2003), pp. 255-56. This allows for his findings to be compared with the propositions of modernisation theories that emphasise the middle class as the link between economic development and democratisation.

Beijing in 1989 precipitated by university students.<sup>14</sup> However, despite being labeled the “Democracy Movement”, the demonstrations in Beijing and many other Chinese cities were primarily a response to corruption, increasing disparities in wealth distribution and other negative effects of the modernisation programme. Calls were largely for the Chinese government to be accountable to the people and not necessarily democratic.<sup>15</sup> Still, these protests did indicate there was a large mass of people in China willing to pressure the government to at least change its social and economic policies, if not the political structure of China. But the commitment of this mass to continue to agitate for change declined sharply in the aftermath of the brutal crackdown on the demonstrators by the Chinese government. Aside from those killed in Beijing in June 1989, thousands more suspected of having leading or supporting roles in the demonstrations were imprisoned, tortured and/or executed over the following months and years.<sup>16</sup> A change in attitude regarding how to bring about political change in China was indicated by some of the students who had been imprisoned at this time and subsequently decided to focus on getting wealthy and influential before agitating again for more political freedoms.<sup>17</sup> By the late 1990s there were fewer reports of unofficial pro-democracy or human rights organisations being established in China.<sup>18</sup>

It seemed that the majority of Chinese preferred stability and order, and a government that was focused on achieving economic growth, to more political freedoms. This was a reflection of rising anti-Western, in particular anti-US, sentiment, as well as a

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<sup>14</sup> Andrew J. Nathan, "Introduction: The Documents and Their Significance," in *The Tiananmen Papers*, ed. Zhang Liang, Andrew J. Nathan, and Perry Link (London: Abacus, 2001), pp. 312-14.

<sup>15</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong: Oxford University Press, 1993), p. 171. Catarina Kinnvall, *Cultural Diffusion and Political Learning: The Democratization of China* (Lund: Lund Political Studies, 1995), p. 24.

<sup>16</sup> Zhang Liang, Andrew J. Nathan, and Perry Link, *The Tiananmen Papers* (London: Abacus, 2001).

<sup>17</sup> Consistent with some modernisation theories, these students' belief was that economic development would further develop a civil society that would bring about democratisation. He Baogang, "Dual Roles of Semi-Civil Society in Chinese Democratisation," *Australian Journal of Political Science* 29, no. 1 (1994), p. 158.

<sup>18</sup> US Department of State, *China Country Report on Human Rights Practices for 1996* (1997 [cited 29 September 2003]); available from [http://www.state.gov/www/global/human\\_rights/1996\\_hrp\\_report/china.html](http://www.state.gov/www/global/human_rights/1996_hrp_report/china.html).

response to the Chinese government's repressive measures.<sup>19</sup> 'Human rights and democracy continue to be perceived as foreign concepts remote from daily life' for most Chinese who 'continue to avoid the dangerous minefield of politics and focus energy instead on family and career, an option open to them and encouraged by the government.'<sup>20</sup>

One potential site for the increased political participation of the Chinese middle class could have been the self-organised and voluntary groups established across China as a result of economic reforms. For example, professional associations have been formed by specialists in particular areas across institutions, enterprise managers of state and non-state organisations, private entrepreneurs and business people, consumers and rural marketers. However, since the events of June 1989 the Chinese government has increased its efforts to regulate and require the registration of such organisations, limiting their degree of autonomy and preventing the legal establishment of organisations suspected of agitating for political change.<sup>21</sup> This has meant that from 1989 to 2003 these associations were not able to be sufficiently autonomous of the Chinese government to have the capacity to bring about a plural political system.

Another factor that has inhibited China's middle class from agitating for democratisation has been the central role of the Chinese government in promoting economic development. After a two decade absence of private commerce, the Chinese government began to sponsor capitalist development in China in the late 1970s. Thus, unlike some of the other developing countries that had inherited capitalism from their colonial periods, China has been experiencing a period of economic development without the entrenched capitalist values of 'separation of economic and political powers, individual choice, and peaceful competition in the marketplace, which favour democratic development.'<sup>22</sup> In addition, the government sponsorship of development

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<sup>19</sup> Ming Wan, *Human Rights in Chinese Foreign Relations. Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001), pp. 27-30, 35.

<sup>20</sup> Ibid. p. 33.

<sup>21</sup> Gordon White, *Riding the Tiger: The Politics of Economic Reform in Post-Mao China* (Basingstoke: MacMillan, 1993), pp. 225-28.

<sup>22</sup> An Chen, "Capitalist Development, Entrepreneurial Class, and Democratization in China," p. 405.

has meant that entrepreneurs have needed political protection in order to maximise their economic successes. Those that have had strong political connections have generally received economic privileges in this unfair marketplace. This clearly limits any desire to completely remove the CCP government and replace it with majority rule. Even the smaller entrepreneurs that have been financially unable to compete with the political connections of wealthier entrepreneurs have at least benefited more from economic development than the larger masses of workers and peasants. These entrepreneurs would be more interested in protecting their economic interests than agitating for the political participation of the majority that might threaten their interests. A desire for such protection would not exclude an agitation for some political reforms, but these would be limited to 'a system of checks and balances that could effectively constrain party power over the market and hold a tight rein over corruption.'<sup>23</sup>

In addition to the entrepreneurs, the skilled workers and managers of China's middle class employed by organisations set up with foreign direct investment have also not agitated for democratisation due to the benefits they have received from China's economic development. Organisations established with foreign direct investment in the Special Economic Zones and a number of coastal cities in China have offered greater rewards to managers and skilled workers than those offered by state owned enterprises. Thus those managers and skilled workers employed by these private organisations have benefited financially from the expansion of the private sector promoted by the Chinese government.<sup>24</sup> Therefore, these groups have not been motivated to call for the democratisation of a political system that has thus far benefited them.

By the end of 2003 the middle class in China had not significantly changed the nature of its political participation. Few were agitating for a democratic political system and the self-organised and voluntary groups established as a result of economic reforms

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<sup>23</sup> Ibid. p. 416.

<sup>24</sup> Mary Gallagher, "Openness Isn't Enough: Globalization and Political Change in China," *China Rights Forum*, no. 1 (2003), 20-24.

were not yet autonomous of the government. Government control over the economic development process continued to limit the desire of the middle class for political reforms focused on reducing corruption. There is also little evidence to suggest that China's middle class was the primary force in bringing about positive changes to China's human rights practices and engagement with the international human rights network from the time of greater international attention to human rights in China in 1989 to 2003.

Positive changes to China's human rights practices included the release of political prisoners on various occasions throughout the 1989 to 2003 period. The timing of these releases clearly indicate that the primary motivation for the Chinese government in these instances was to appease its external critics. For example, the Chinese government claimed it had released 573 people imprisoned for their involvement in the Tiananmen Square demonstrations just prior to the US Congress vote on the status of Chinese students and the US government's decision to cease its opposition to World Bank loans to China in 1990. Prior to the US government's decision to renew China's MFN status in 1990 the Chinese government released a further 211 imprisoned for their involvement in the demonstrations, and prior to the 1994 MFN decision a further two were released. At the times of the US-China presidential summits a number of prominent political prisoners were released, including Wei Jingsheng in 1997 and two Tibetan political prisoners in 2002 and three in 2003. Other prominent political prisoners were released prior to UNCHR sessions in an attempt to dissuade democratic states from supporting a resolution on China.

The Chinese government took other actions in attempts to minimise support for resolutions on its human rights practices at the UNCHR. For example, the Chinese government announced that it would sign the ICESCR and the ICCPR to coincide with the 1997 and 1998 UNCHR sessions respectively. These announcements were also used as concessions by the Chinese government in response to pressures from the US and UK governments and the UN High Commissioner for Human Rights.

The Chinese government's growing participation in international human rights debates throughout the 1989 to 2003 period was also primarily a response to its external critics rather than a response to internal forces. This participation involved the development and promotion of a Chinese understanding of international human rights via the publication of White Papers on human rights, the hosting of international human rights events and the building of an alliance of developing countries. The Chinese government's participation in international human rights debates also included the acceptance of delegations from other countries and UN human rights bodies to investigate human rights practices in China, and its promotion of and involvement in bilateral human rights dialogues and TCPs. All of these efforts were primarily attempts by the Chinese government to influence international understandings of human rights and their enforcement mechanisms, as well as attempts to appease its external critics and persuade democratic states to cease their support for resolutions on China at the UNCHR.

Permission given to representatives of the Dalai Lama by the Chinese government to visit Tibet in 2002, and the release of four Tibetan prisoners and an invitation for representatives to visit Beijing to discuss Tibetan autonomy in 2003, were other positive changes that were primarily responses to external pressures. These seemed particularly aimed at persuading the US to not support a resolution on China at the 2003 UNCHR session and to show progress since the 2001 US-China human rights dialogue meeting.

Finally, changes made to China's legal system were not initiated by the Chinese government in response to China's middle class. Legislative additions and amendments from 1989 to 2003 were a reflection of the Chinese government's desire to provide its international investment partners with some legal protection for their interests as well as further responses to its external critics. For example, the establishment of the Criminal Law in October 1997 that replaced "counterrevolutionary crimes" with "crimes endangering state security" was at the time that many democratic states were considering ceasing their support for

resolutions on China at the UNCHR. These legislative changes, and the relatively limited attempts to make the judicial system more independent, were also in response to domestic considerations but not because of the agitation of the middle class. The changes were more a reflection of the Chinese government's attempts to increase its political legitimacy to the masses of workers in the late 1990s as millions were facing unemployment with the decision to close all state owned enterprises.

Thus from the beginning of China's modernisation programme in 1978 to 2003 there is little evidence to suggest that modernisation theories linking economic development and democratisation via the increased political participation of the middle class were able to explain the positive changes in the Chinese government's human rights practices. However, this does not rule out any indirect impact that modernisation in China has had on the changes to the Chinese government's human rights practices from the time of greater international attention to human rights in China in 1989 to 2003.

China's modernisation programme beginning in the late 1970s has brought about the growth of those who are university-educated and those who have become business people, managers, white-collar employees and professionals such as scientists, stockbrokers, accountants, lawyers and academics. The growth of these groups of people has meant that China has become a more receptive country than prior to the modernisation programme to some of the efforts of the Chinese government's critics to bring about changes to human rights practices. For instance, the existence and growth of legal professionals has meant that officials from states critical of the Chinese government's human rights record have been able to find relevant professionals within China with which to engage in human rights discussions. For example, the technical cooperation programmes run by various democratic states, as well as the Office of the UN High Commissioner for Human Rights and private foundations, in conjunction with the Chinese government, involve predominantly Western officials developing and conducting activities on topics including human rights with many Chinese legal professionals. The growth of academics and those



with a university education since the end of Mao's rule and the beginning of the modernisation programme has meant that there exists in China a group of people who have been able to engage in international human rights discussions, both independently and on behalf of the Chinese government. Some of these were the people who developed China's human rights White Papers and participated in international human rights events on behalf of the Chinese government. Thus China's modernisation programme, through bringing about increasing numbers of those with a university education and those who have become academics and legal professionals, has indirectly made China more receptive and able to participate in international human rights debates.

The Chinese government's growing engagement with international trade and economic affairs since the beginning of its modernisation programme is also likely to have had an indirect impact on China's engagement with international human rights norms. As China has become increasingly integrated into the global economy, its overseas investors and trade partners have pressured the Chinese government to implement reforms that would provide their interests with some legal protection. When China became a member of the WTO in 2001 this pressure was formalised and the Chinese government committed itself to improving the openness, predictability and independence of its legal system in regards to trade. It also committed itself to accepting extensive international monitoring of its responsiveness to WTO requirements.<sup>25</sup> The Chinese government's desire to bring about legal reforms regarding trade concerns has meant that it has had an interest in learning about international law and the legal systems of other states. This is likely to have made the Chinese government more receptive to engaging with the transnational human rights network, especially the democratic states who were also China's growing trade partners, on the issue of legal reforms that reflect international human rights norms. Through participation in the various technical cooperation programmes focused on legal reform, for example, Chinese officials have been generally exposed to international law and domestic legal systems, not just to elements of these focused on

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<sup>25</sup> Sharon K. Hom, "China and the WTO: Year One," *China Rights Forum*, no. 1 (2003), p. 14.

the protection of human rights.<sup>26</sup> Thus the Chinese government's interest in reforming its legal system to accommodate international trade concerns is likely to have made it more receptive to engaging with the international human rights network on legal reform issues. In turn, this engagement has led to some legislative changes, although limited in their scope, consistent with international human rights norms.

That the Chinese government has willingly committed itself to legal reform in regards to trade does not necessarily mean, of course, that the Chinese government will make the same far-reaching commitment in regards to human rights. However only several decades ago it would have been unimaginable that the communist Chinese government would make the extensive economic reforms it has and such a pervasive commitment to a global trade body to reform its legal system.<sup>27</sup> Therefore, the prospect of a legal system in China that entrenches the respect for international human rights norms cannot be ruled out. Similarly, the prospect of a democratisation process in China some time in the future cannot be ruled out, and the genesis of such a process may have already been established by some of the Chinese government's actions under the modernisation programme, including its efforts to establish a rule of law.

### The Potential for a Democratisation Process in China

The potential of a more direct link between economic development and democratisation in China may be found by focusing on some of the changes brought about by the Chinese government since the late 1970s. These changes have been influenced by the modernisation programme and may well be indicators of a potential democratisation process. According to Minxin Pei, the Chinese government has brought about institutional changes in three areas in order to promote economic development that may have 'unintended consequences that bode well for

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<sup>26</sup> A Legal and Human Rights Consultant with the Australian TCP highlighted that one of the reasons this TCP had gained early support from most of its participating Chinese agencies was likely to have been the Chinese government's interest in legal reforms for trade purposes. Legal and Human Rights Consultant to the Human Rights and Equal Opportunity Commission, Interview, Sydney, 28 March 2002.

<sup>27</sup> Horn, "China and the WTO: Year One," p. 18.

democratisation'.<sup>28</sup> These areas include efforts to establish a rule of law, the changing role of the NPC and grassroots democratic elections. As a result of the modernisation programme, there has also been the development of cooperative interest groups independent of the government in the rural areas. This illustrates how economic development has led to new forms of political participation in China and opens up the possibility that such interest groups may also develop in urban areas. In addition, the Chinese government's responses to the growing protests of workers over the devastating effects of economic reforms indicates another potential site for a more plural political society within China and thus another area where there may well be a link between economic development and democratisation.

The development of the Chinese legal system over the past 25 years, widely concluded as measures primarily taken by the Chinese government to promote economic modernisation, may provide the potential for a democratisation process in China.<sup>29</sup> Although this system does not yet resemble a rule of law, it encompasses some degree of regularity that was absent from the arbitrariness of Mao's rule. There are also indications that such a rule could develop. Between 1978 and 1994 the NPC enacted 175 laws and local people's congresses enacted 3,000. Legislation passed from 1995 to 2003 included laws to increase the accountability of judges, procurators and the police, separate lawyers from the state, and improve the rights of detainees. Offsetting these positive legal developments, however, were laws revised and passed over this same period that increased the number of activities that could be considered to be crimes and increased the amount of time someone could be detained before being technically arrested.<sup>30</sup> Chinese citizens have increasingly used the law to seek remedies, even against the government – administrative lawsuits against the government increased by 12,483 percent from 1986 to 1996, civil lawsuits increased by 212 percent and commercial litigation increased by 387 percent. There has also

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<sup>28</sup> Minxin Pei, "'Creeping Democratization" in China," *Journal of Democracy* 6, no. 4 (1995), p. 68.

<sup>29</sup> *Ibid.* p. 68.

<sup>30</sup> Human Rights Watch, *China: Human Rights Developments 1996* (1997 [cited 29 September 2003]); available from [http://www.hrw.org/reports/1997/WR97/ASIA-03.htm#P164\\_85228](http://www.hrw.org/reports/1997/WR97/ASIA-03.htm#P164_85228). Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*. Ann Kent, *China, the United*

been a dramatic increase in the number of lawyers in China, from 31,000 in 1988 to 90,000 in 1995. By 1995 the number of private legal companies in China were 1,625, representing 22 percent of all law firms, and increasing by approximately 500 per year.<sup>31</sup> There is no reason to suggest that this trend will abate, although it must be stressed that enforcement of these laws remains weak due to continued CCP influence over the judiciary and the lack of public understanding of the legal system. There have also been continuing reports of the harassment and persecution of some lawyers for defending their clients. However, the existence of the new laws has been to the advantage of groups such as private entrepreneurs, overseas investors and a growing middle class, all of who would oppose any attempt to reverse this development. The new laws have been used by some members of these groups to seek redress from the government for violations of private property and other economic rights and to resolve contract disputes.<sup>32</sup> Thus the development of the legal system may well be the site through

which the CCP's authority can be indirectly challenged and checked before the initiation of competitive elections. Unlike a competitive election or multiparty system, which would threaten the CCP's rule, gradual legal reforms pose no immediate danger to the party's power and may even serve some of its short-term interests. But as legal institutions develop, Beijing's program of limited legal reform has the potential to evolve from a system of law into a rule of law.<sup>33</sup>

Another development that may indicate potential for a democratisation process in China is the changing nature of the NPC. By the early 1990s the NPC had begun to move beyond its role as 'rubber stamp' of CCP decision making. This was the result of NPC deputies becoming more educated, a consequence of economic development,

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*Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999), pp. 204-5.

<sup>31</sup> Minxin Pei, "Is China Democratizing?" *Foreign Affairs* 77, no. 1 (1998), pp. 76-7

<sup>32</sup> Human Rights Watch, *Human Rights Watch World Report 2003: China and Tibet*.

Minxin Pei, "'Creeping Democratization' in China," pp. 68-70, 77.

<sup>33</sup> Minxin Pei, "Is China Democratizing?" p. 77.

and the organisation maturing to desire to become more independent.<sup>34</sup> At the end of the 1990s the NPC had

asserted its perogatives as China's supreme lawmaking body. Although it has not directly confronted the CCP on key legislative proposals, members of the NPC now sponsor their own bills, actively debate and amend proposed legislation, and occasionally hold up or vote against important bills.<sup>35</sup>

Large numbers of NPC members have gone against the CCP on a number of occasions. For example, 36.5 percent opposed the nomination of a senior CCP official to a deputy premiership in 1995 and approximately 20 percent voted against the annual report of the Supreme Court and the Supreme Procurator's Office in 1997.<sup>36</sup> The NPC is still far from being an independent legislative body from the CCP, however, the continuation of its subtle expressions of independence from the CCP may help create a more plural political society in China.

The democratic elections of deputies to local people's congresses, work unit leaders and village leaders held throughout China over the past fifty years may also indicate potential for a more widespread democratisation process in China. Elections for deputies to local people's congresses began in 1953, were suspended during the Cultural Revolution (1966-1979), and then resumed in 1979 and have occurred every four years since. Legislation stipulates that these elections must involve secret ballots and both voters and CCP authorities can nominate candidates. Elections for work unit leaders were first encouraged by the Chinese government in the late 1970s as a method of identifying competent leaders who would increase the efficiency of their work units.<sup>37</sup> In rural areas peasants first established elections in some villages in the late 1970s in order to fill the hierarchical vacuum left after rural communes were dismantled as part of China's modernisation programme. The Chinese government

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<sup>34</sup> Minxin Pei, "'Creeping Democratization' in China," p. 71.

<sup>35</sup> Minxin Pei, "Is China Democratizing?" pp. 74-75.

<sup>36</sup> Minxin Pei, "'Creeping Democratization' in China," p. 72.

<sup>37</sup> Minxin Pei, "Is China Democratizing?" p. 75. Tianjian Shi, *Political Participation in Beijing* (Cambridge, Massachusetts: Harvard University Press, 1997), pp. 34-40.

recognised the role the elections could play in promoting order and stability in rural areas and in 1982 they were recognised by the Chinese Constitution. In 1998 legislation was introduced that stipulated all villages needed to hold elections to choose their chiefs and committees. Despite this, only a small fraction of villages have held genuinely democratic elections. CCP influence remains strong in many of the elections and the national Chinese government has placed limits on the furthering of democratisation in China. President Jiang Zemin was particularly noted to be against further democratisation. It remains to be seen whether Hu Jintao will be more supportive.<sup>38</sup> But notwithstanding these limitations and that the elections of village leaders, work-unit leaders and deputies to local people's congresses only offer choices of candidates for relatively low level official positions, they still may hold the potential for further democratisation in China.

In the limited number of villages known to have been following the democratic elections guidelines, villagers were at least being given choices they had not previously had and were learning that they had the right to express their opinions on their local leadership and to expect official accountability at the local level. In some villages democratic elections led to local citizens demanding more accountability from higher level officials. In some cases this resulted in direct elections being held at the township level, for example, in Buyun County, Sichuan in 1998. Village elections have also inspired some urban neighbourhoods to begin the process.<sup>39</sup> Some improvements in governance in villages holding democratic elections have also resulted, including 'the establishment by elected village officials of a transparent system of fiscal accounting and the holding of public discussions and village referendums on proposals for major public expenditures.'<sup>40</sup> In addition, voter turnout in these elections has been high. According to Tianjian Shi, citizens are

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<sup>38</sup> Minxin Pei, "'Creeping Democratization" in China," pp. 74-76. Anne F. Thurston, *Rural Rule and Village Elections* (China Rights Forum, Winter 2000 [cited 21 March 2004]); available from [http://iso.hrichina.org/iso/article.adp?article\\_id=421&subcategory\\_id=9](http://iso.hrichina.org/iso/article.adp?article_id=421&subcategory_id=9). See also Beijing Review, "Improving Villagers Autonomy System," 19-25 October 1998.

<sup>39</sup> Tianjian Shi, *Political Participation in Beijing*, p. 180.

<sup>40</sup> Minxin Pei, "'Creeping Democratization" in China," p. 76.

pushed to the ballot booth by their willingness to remove unpopular leaders in grassroots organisations, others by civic orientation imposed by communist political propaganda, and still others by their burning desire to promote Chinese democracy.<sup>41</sup>

Thus by the end of 2003, despite the limitations of these democratic elections, Chinese citizens continued to participate in this imperfect political process. This

indicates that the changes in the electoral system introduced by the regime in Communist China could have their own momentum, which might lead to further change of that very political system.<sup>42</sup>

In addition to the democratic elections of village leaders, the rural areas illustrate another potential site for a more plural political system in China. In these areas there has been evidence of the development of cooperative interest-based groups independent of the government. The introduction of the marketisation of commodities in rural China has meant that village authorities are now responsible for selling certain commodities to local citizens, not just distributing them. This has not only changed the relationship between the authorities and the local citizens, but also the relationship between local citizens. Instead of competing with each other for the allocation of commodities, local citizens now have interests in common – to work collectively to pressure the authorities to reduce their prices. Thus new interest-based groups are forming and these could provide the potential for larger opposition groups to the government. However, delays in this development are likely because of low education levels and organisational skills and little information on government processes in rural areas, meaning that rural opposition groups are not likely to appear in the near future. But the development of these interest groups shows the potential of such alternative forms of political participation in China. With the continuation of economic liberalisation, marketisation is likely to continue to spread in urban areas and the system of distributing resources via the work unit that used to be dominant in these

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<sup>41</sup> Tianjian Shi, *Political Participation in Beijing*, p. 180. See also Minxin Pei, "Creeping Democratization" in China," pp. 74-75.

areas will continue to diminish. This will mean a reduction on the limits placed on the potential for interest groups to form within urban Chinese society due to the hierarchical nature of Chinese bureaucracy and the way in which resources have been distributed.<sup>43</sup> As government control retreats more and more from economic life, new ways of expressing interests are likely to be developed by citizens. This may herald 'faster change in Chinese politics because the urban population is better prepared for such a transformation than the rural population, in terms of education, information, and organisational skills.'<sup>44</sup>

Another potential site for a more plural political system in China lies in the growing protests of workers to the effects of economic reforms such as official corruption, increasing unemployment and partial and non-payment of wages. The non-official workers' organisations that emerged during the 1989 demonstrations to protest against the growing rates of inflation and corruption were pushed underground by the Chinese government's repressive crackdown.<sup>45</sup> However, by the late 1990s, once state-owned enterprises had begun to be closed, workers' protests became more widespread and bold, resulting in the repression of some of the leaders of unofficial unions. By the time Hu Jintao had assumed the presidency of China in early 2003, the Chinese government was attempting to usher in a period where it was seen as being responsive to the plight of workers as well as those in the rural areas. There were a number of reports in 2003 that some local officials had begun to appreciate that workers

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<sup>42</sup> Tianjian Shi, *Political Participation in Beijing*, p. 197.

<sup>43</sup> Up until at least the late 1980s work unit officials in urban areas had primary responsibility for allocation of resources to its workers. However, these officials not only had to implement high-level directives, often communicated by imprecise documents that were open to interpretation, but also had to be somewhat responsive to the needs and preferences of their workers in order to ensure production quotas would be reached. This enabled the workers to exert at least some influence on their work unit leaders but because the allocation of resources to work units were finite, any attempts by one worker to increase his or her access to these resources meant that other workers would receive less. This encouraged forms of political participation based on how to exclude rather than include others. Thus cooperation with others, essential for the formation of interest groups, was not encouraged by the survival of the work unit. For a discussion on these forms of political participation, see *ibid.* Continued economic liberalisation in the urban areas throughout the 1990s and into the 21<sup>st</sup> century has dramatically decreased the range of resources the work unit has had responsibility for distributing. The Economist, *Danwei People Become Citizens* (4 September 2003 [cited 1 July 2004]); available from [http://www.economist.com/displaystory.cfm?story\\_id=5%27%298%2C%28P%21%3F%2A%200%22%5C%0A](http://www.economist.com/displaystory.cfm?story_id=5%27%298%2C%28P%21%3F%2A%200%22%5C%0A).

<sup>44</sup> Tianjian Shi, *Political Participation in Beijing*, p. 281.



demonstrations needed to be handled with care due to their popular support.<sup>46</sup> If workers protests continue to grow and attract wider public support, and if the Chinese government becomes more and more responsive to their concerns, workers protest groups may yet develop into a source of opposition to the government.<sup>47</sup>

The efforts to establish a rule of law, the changing role of the NPC, grassroots democratic elections, the development of cooperative interest groups in rural areas and growing workers' protests are all consequences at least in part of the Chinese government's promotion of economic development. If these changes continue to develop, they may yet lead to democratisation and the establishment of the rule of law and the institutionalisation of the respect for the two core rights focused on in this research. This would then provide some support for modernisation theories that emphasise a correlation between economic development and democratisation.

## Conclusion

The spiral model has been able to explain many of the changes in the Chinese government's human rights practices from the time of the "anti-rightist" campaign in 1957-58 to 2003. Through the pressures placed on the Chinese government to improve its human rights record by the transnational human rights network's promotion of international human rights norms, the Chinese government experienced

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<sup>45</sup> Kent, *China, the United Nations, and Human Rights: The Limits of Compliance*, p. 133.

<sup>46</sup> Erik Eckholm, "China's New Leader Works to Set Himself Apart" (*New York Times*, 12 January 2003 [cited 12 January 2003]); available from

<http://query.nytimes.com/gst/abstract.html?res=F00C17FD3C550C718DDDA80894DB404482>.

Elisabeth Rosenthal, "Workers' Plight Brings New Militancy in China" (*New York Times*, 10 March 2003 [cited 10 March 2003]); available from

<http://query.nytimes.com/gst/abstract.html?res=FB0B11FB3D5A0C738DDDA0894DB404482>.

The Associated Press, "China Promises Help for Jobless, Poor" (*New York Times*, 12 March 2003 [cited 15 March 2003]); available from <http://www.nytimes.com/>.

<sup>47</sup> Large protests in Hong Kong in 2004 against the Chinese government's refusal to allow Hong Kong citizens to elect their leaders may provide another potential catalyst for a more plural political system in China, if such demands spread to the mainland. Keith Bradsher, "Protesters Show a New Boldness in Hong Kong" (*The New York Times*, 1 July 2004 [cited 1 July 2004]); available from

<http://www.nytimes.com/2004/07/01/international/asia/01CND-HONG.html?pagewanted=print&position=>.

the socialisation processes of instrumental adaptation and argumentative discourses such that it was making concessions and engaging in debates on international human rights norms. The Chinese government was thus socialised to some extent according to international human rights norms. However, by the end of 2003 the Chinese government's dominant great power identity continued to limit the degree to which its interests and behaviours reflected international human rights norms. This identity defined China's interests as needing to influence these norms according to its priorities and preferences, and it was successful in being able to modify some of the enforcement mechanisms of these norms. The alternative explanations to the spiral model explored in this chapter, neorealism and modernisation theories, were found to provide better explanations than the spiral model in only a few aspects of the changes in the Chinese government's human rights practices.

Neorealism, and its emphasis on the role of great powers in bringing about a target state's human rights practices, has only been able to explain some aspects of the Chinese government's human rights practices from the time of greater international attention to human rights in China in 1989 to 2003. One such aspect is that both the US government and the EU were able to influence the Chinese government to make tactical concessions that were clearly aimed at appeasing these great powers. This reflects the military and economic power of the former and the significant economic power of the latter.

However, the Chinese government responded and offered tactical concessions to a range of state and non-state critics, not just the US government as the sole superpower and the EU as a significant economic power, from 1989 to 2003. In addition, both the US government and the EU were more participants in the transnational human rights network than its leaders, with the US government only occasionally taking on a leadership role. The spiral model accounts for the influence of the US government over other actors in the transnational human rights network on these occasions, and the human rights practices of the Chinese government. It also accounts for the influence of other actors in the transnational human rights network over the US government and

the human rights practices of the Chinese government. Therefore, on this aspect, the spiral model provides a more comprehensive explanation of the Chinese government's changes in human rights practices than neorealism as it accounts for the influence of great powers as well as less powerful states and non-state actors.

Neorealist explanations become more pertinent when the impact of the Chinese government on the enforcement mechanisms of international human rights norms is examined. The success that the Chinese government has had on modifying some of these enforcement mechanisms cannot be explained by the spiral model since the model does not explore the influence of a target state on international human rights norms. When a target state like the Chinese government is an international power, it has the potential to have an influence over international human rights norms and their enforcement mechanisms. To account for this part of the relationship between a powerful target state and international human rights norms, the spiral model needs to acknowledge the neorealist argument that the relative power of a state can allow it to influence the practices of other states. This is clearly the case regarding the Chinese government's ability to influence most of the democratic states to support the bilateral approach to human rights over the multilateral approach.

However, it must also be explained why the Chinese government did not pressure the democratic states to cease all references to its human rights record. One part of this explanation is neorealist in that the EU and its larger members have had the significant economic power to be able to continue at least some emphasis on human rights in relations with China, albeit in the form of the Chinese government's preferred dialogue approach. But this is only one part of the picture. A constructivist explanation is needed to explain why human rights concerns continued to be part of the interests of the EU and its members. These democratic states have had liberal identities that promote respect for international human rights norms. Their interests have thus included the promotion of a foreign policy that has a place for human rights concerns. Therefore, these states were not likely to have accepted demands from the Chinese government to cease raising human rights concerns altogether. Similarly, the

Chinese government's dominant great power identity and the engagement with international human rights debates that accompanied this provided a restraint on how far this government could go in silencing its critics.

Another potential alternative explanation to the spiral model explored in this chapter was the modernisation theory that emphasises the increased political participation of the middle class as the link between economic development and democratisation. Little evidence was found to support this theory. By the end of 2003 the middle class in China was still relatively small and had not agitated for democratisation. Factors contributing to this included the brutal crackdown of the protesters in Beijing in June 1989 and the repression in its aftermath, rising anti-US sentiment in China, government regulation of the self-organised groups that had emerged from economic reforms, the central role of the government in promoting these reforms, and the benefits some of China's middle class have received from these reforms. The positive changes in human rights practices made by the Chinese government from the time of greater international attention to human rights in China in 1989 to 2003 were also not direct responses to middle class concerns. The release of political prisoners and the engagement in international human rights debates were primarily aimed at appeasing the Chinese government's external critics and influencing understandings of international human rights norms.

However, China's modernisation programme has had an indirect impact on the changes to the Chinese government's human rights practices from 1989 to 2003. Through this programme, many Chinese have become university-educated and some have gone on to become legal professionals and academics. The existence of these groups has meant that there were people in China from 1978 who were able to engage in international human rights discussions and debates on behalf of the Chinese government. This is in contrast to much of the period of Mao's rule where education was severely disrupted, particularly during the Cultural Revolution, and there were very few legal professionals. Thus the modernisation programme has at least increased China's ability to participate in international human rights debates. China's

growing engagement with the global economy is also likely to have had an indirect impact on some of the Chinese government's changed human rights practices. International pressures to bring about legal reforms to protect the interests of its trade and investment partners is likely to have made the Chinese government more receptive to international pressures to make legal reforms consistent with international human rights norms.

Other than efforts to make legal reforms in response to international pressures, a number of other changes brought about by China's modernisation programme may hold the potential for a more direct link between economic development and democratisation in the future. These include the changing role of the NPC, grassroots democratic elections, the development of cooperative interest groups in rural areas, and growing workers' protests. If these changes continue to develop, a national democratisation process could develop. If democratisation was to result from changes that had their genesis in China's modernisation programme, this would provide some support for theories that emphasise a correlation between economic development and democratisation. But this would not necessarily mean that the spiral model could not also provide some of the explanation for a democratisation process.

## **Chapter Eight - Conclusion**

### **Introduction**

This thesis set out to test whether the spiral model of Risse et al. could be applied to China since the late 1950s. The investigation has demonstrated that the spiral model provides a valid explanation for many changes of the human rights practices of the Chinese government and its responses to its external and internal critics from the time of the “anti-rightist” campaign in 1957-58 to 2003. Some aspects of the Chinese government’s practices over this time period can be better explained by realist approaches and modernisation theories but constructivist approaches, and in particular the spiral model, are more effective in explaining the developing pattern of communication about the validity of human rights norms. Modernisation theory can identify factors in China’s economic development facilitating this communication, and realist assessment of China’s relative power helps to explain why the Chinese government’s progress through the phases of the spiral model was more halting and inconsistent than in the cases observed by Risse et al.

This chapter will commence with an overview of the socialisation processes of the spiral model, highlighting how a transnational human rights network may impact on a target state. Both the Chinese government’s socialisation according to international human rights norms, and its impact on the norm’s enforcement mechanisms, as explored throughout this thesis, will then be summarised. This will include a summary of the relevance of the alternative explanations. The chapter will conclude with a discussion of the implications of this thesis’ findings for human rights NGOs, democratic states’ foreign policies, UN human rights bodies, Chinese opposition groups and the Chinese government, as well as future research.

## The Socialisation Processes of the Spiral Model

The spiral model seeks to explain why a target state may bring about human rights improvements in response to pressures from a transnational human rights network. Central to this explanation is the interaction between the target state and the actors of the transnational human rights network, in particular, the communication and socialisation processes involved in this interaction. By illuminating these processes, the spiral model highlights how a transnational human rights network may impact on a target state.

The actors of a transnational human rights network communicate their disapproval of a target state's human rights abuses largely through written and verbal expressions reflecting international human rights norms. These expressions generally criticise the target state's abusive practices and call for human rights improvements. On some occasions these expressions may be accompanied by sanctions such as the suspension of high level government meetings, loans, aid or trade agreements. But, generally, words are the predominant tool of network actors.

If these expressions of disapproval are sustained over time, and if the target state is not sufficiently powerful to resist such pressures, then the target state will engage in interaction and undergo socialisation processes to the point where ultimately it may have internalised international human rights norms. The first type of interaction, instrumental adaptation, is a limited pragmatic response to silence criticism. At this stage the target state may not acknowledge the normative validity of human rights norms nor the factual validity of accusations.<sup>1</sup> Nevertheless, even instrumental adaptation is an interaction affecting identity as through its interactions with its critics the target state's identity has begun to develop an acceptance that it is legitimate for

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<sup>1</sup> Thomas Risse and Kathryn Sikkink, "The Socialization of International Human Rights Norms into Domestic Practices: Introduction," in *The Power of Human Rights: International Norms and Domestic Change*, ed. Thomas Risse, Stephen C. Ropp, and Kathryn Sikkink (Cambridge: Cambridge University Press, 1999), p. 12.

states to discuss international human rights norms. Thus instrumental adaptation has a socialising effect.

As the target state continues to interact with its critics, it begins to engage in argumentative discourses. This is where the target state discusses its interpretation of norms and justifies its actions. The socialisation effect of this process is stronger than for instrumental adaptation as through engaging with argumentative discourses the target state finds itself repeatedly discussing the validity and meaning of international human rights norms.<sup>2</sup> This increasingly affects its identity, the way it defines itself compared with other states, as it becomes “normal” for the target state to engage in such discussions. Thus, in effect, engaging in argumentative discourses means going through a socialisation process.

If the transnational human rights network continues to criticise the target state and call for human rights improvements, the target state may engage in a third socialisation process, internalisation and habitualisation. This process reflects that the longer a target state engages in discussions on human rights norms with its critics and accepts the validity of these norms, the more likely it is to change its identity, interests and behaviours to reflect these norms. Eventually the target state’s actions may become consistent with human rights norms as it becomes the “normal” way things are done.<sup>3</sup> Thus a transnational human rights network may impact on a target state’s behaviour by communicating its disapproval over the target state’s human rights practices, which can result in socialisation processes leading to the state’s identity, interests and behaviours increasing reflecting international human rights norms.

The transnational human rights network that mobilised in response to the Tiananmen Square massacre in June 1989 had some impact on the Chinese government throughout the following years. The responses of the network to reports of human rights abuses in China were largely written and verbal expressions of disapproval and

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<sup>2</sup> Ibid. p. 16.

<sup>3</sup> Ibid. pp. 16-17.



calls for human rights improvements, although some predominantly symbolic sanctions were applied for a short time. These responses resulted in the socialisation of the Chinese government to the extent that it can be considered to have reached phase three of the spiral model by the end of 2003. However, throughout this period the Chinese government also had an impact on the enforcement mechanisms of international human rights norms, highlighting its ability to impact on the transnational human rights network.

### **The Chinese Government and the Spiral Model - Findings**

Phase one of the spiral model, repression and network activation, began in China in the late 1950s when the “anti-rightist” campaign resulted in a significant increase in the abuses of the rights to freedom from torture, arbitrary arrest, detention and extrajudicial execution. It was not until June 1989 that the Chinese government progressed to phase two of the model, when the repressive measures taken by the Chinese government in Beijing in response to the Tiananmen demonstrations resulted in the deaths of many. A significant presence of international media in Beijing at the time of the killings meant that images of some of the repression were beamed throughout the world, mobilising a sense of outrage in many countries. Risse et al. concluded that if information on a significant increase in a state’s human rights abuses could be internationally disseminated, then that state was likely to progress to phase two of the spiral model. Consistent with this, the presence of the international media in Beijing advanced the situation in China in June 1989 to phase two.

The events in China from the latter half of 1989 to 1991 were largely consistent with phase two of the spiral model. In phase two, denial, information on the human rights abuses of the target state is internationally disseminated, and the lobbying of international human rights NGOs and democratic states begins. The target state usually responds by denying the allegations of abuse by denying the validity of international human rights norms, invoking the state sovereignty principle and/or

trying to persuade its citizens that the criticisms are coming from ignorant foreigners. The denial phase began almost immediately for the Chinese government due to the international media reports and the mobilisation of international human rights NGOs. These organisations disseminated reports of further abuses to UN bodies and democratic states, pressuring them to make further responses to China. Democratic states responded to this pressure, and the concerns of their own citizens, by condemning the killings and calling for the Chinese government to cease the repression, and imposing largely symbolic sanctions. A resolution critical of China's human rights practices was raised at the 1990 UNCHR session and other UN human rights bodies issued statements concerning the repression. Internal groups and individuals that had been involved in the demonstrations, or later expressed sympathy for them, were targeted by the Chinese government and suffered from further repressive measures. However, the Chinese government's internal responses also included attempts to alleviate the suffering caused by economic development programmes, arguably the catalyst for the demonstrations, and granting some personal freedoms.

The Chinese government's responses to its external critics included denying that it had carried out human rights abuses, rather than denying the validity of the universal human rights concept itself, invoking the state sovereignty principle and highlighting the past human rights abuses of the colonial powers. The Chinese government responded to the draft resolution sponsored at the UNCHR in 1990 with vigorous lobbying for a no action motion. The government also encouraged the development of its own official discourse on human rights while releasing some of those involved in the demonstrations and reducing the sentences of some of the others. More significant concessions began to be offered by the Chinese government towards the end of 1991 with the acceptance of human rights delegations from Australia and France to visit China.

While the spiral model expects the target state to practise instrumental adaptation in phase two, the Chinese government also engaged in argumentative discourses during

its denial phase. This is in contrast to Risse et al.'s cases which only practised instrumental adaptation, and can be explained in part by China's prior engagement with the international human rights regime. By the late 1980s the Chinese government's support of and involvement in various human rights treaties meant that it had already expressed support for at least some of the international human rights norms in the international arena. Through this support and involvement, the Chinese government had indicated its understanding that support for international human rights norms was a precondition for being a great power. The desire to be seen as a great power in the international society of states reflected the Chinese government's dominant great power identity. Thus it would have been very difficult for the government to reply to its critics by denying the validity of these human rights norms as this would have challenged its standing as a great power. Instead the Chinese government felt compelled to argue with its critics about the substance of their criticisms, a characteristic of argumentative discourses.

China's prior engagement with the international human rights regime, as well as the great importance it attached to being seen as a great power, also contributed to it experiencing a relatively short denial phase compared with Risse et al.'s cases. Other contributing factors were the massive media coverage of the events in Beijing in June 1989 that swiftly placed China on to the agenda of the transnational human rights network, and the size of the network itself which had grown by 1989 to encompass large numbers of NGOs and democratic states that included at least some emphasis on human rights in their foreign policies. In addition, China's relatively short denial phase was the result of the Chinese government's concerns that it needed to increase its legitimacy to rule in the eyes of Chinese citizens, and to appease democratic states, particularly the US. These concerns translated into the Chinese government offering concessions to both its domestic and external critics. The Chinese government's denial phase also differed from those of Risse et al.'s cases because China succeeded in exercising some influence over its external critics during this phase.

The third phase of the spiral model, tactical concessions, began for the Chinese government once it began to make significant concessions towards the end of 1991. By 1991 pressures from international human rights NGOs and democratic states since 1989 led the Chinese government to make the concessions of releasing further political prisoners, encouraging an internal human rights discourse, and increasing its engagement with international human rights debates. The Chinese government's invitations to the Australian and French human rights delegations to visit China at the end of 1991 and investigate its human rights record on its own soil reflected the degree to which the Chinese government was prepared to offer concessions in order to quieten its critics. These actions signal that China was acknowledging the validity of human rights norms but trying to repudiate the factual validity of accusations.

Throughout the period of phase three examined in this thesis, 1991 to 2003, the Chinese government continued to make concessions in response to pressures from the transnational human rights network. International human rights NGOs continued to document and disseminate information on human rights abuses in China and lobby the democratic states and UN bodies to pressure the Chinese government to cease these abuses. Resolutions at the annual UNCHR sessions were sponsored by democratic states as their main expression of concern to the Chinese government until their support began to waver in 1997. The US government also had other responses at its disposal, including the annual debate until 1994 about renewing China's MFN trading status with human rights conditions attached. In addition, it continued to be one of the few democratic states to support resolutions on China at the UNCHR after 1998, lending its support at the 1999 to 2001 sessions. By 1997 the Chinese government's lobbying efforts, particularly using its growing trade relationships with most democratic states, were showing success with most of these states wavering in their support for resolutions on China at the UNCHR. Bilateral human rights dialogues and technical cooperation programmes with China were instead adopted by most as the means through which human rights concerns would be expressed. Thus China had used its economic weight to minimise international disapproval and sanctions.

In response to these pressures from 1991 to 2003, the Chinese government engaged in argumentative discourses on international human rights norms, including participating in debates on international human rights by promoting its own human rights understandings from 1991. This resulted in the publication of 21 White Papers as well as numerous articles and books on human rights by Chinese academics and journalists. The Chinese government also promoted its own understandings by hosting a number of international conferences on human rights and cultivating an alliance with other non-Western states. The success of this alliance was particularly evident at the UNCHR where the Chinese government was able to prevent a resolution on its human rights record being voted on every year it was sponsored, except for 1995. Other tactical concessions offered by the Chinese government in response to the transnational human rights network included releasing political prisoners, signing and ratifying international human rights conventions, and introducing legislative amendments with some consistencies with international human rights norms. These concessions were timed to coincide with such events as annual UNCHR sessions and high level US-China meetings

Some of the concessions offered by the Chinese government were clearly aimed at appeasing the US government and the EU, reflecting the military and economic power of the former and the significant economic power of the latter. Thus neorealism would seem to be an appropriate explanation here, given its emphasis on the role of great powers in bringing about changes in a target state's human rights practices. However, tactical concessions were offered to a range of critics by the Chinese government, not just the great powers, and both the US government and the EU were more participants in the transnational human rights network than its leaders. The spiral model accounts for both the influence of the great powers over the Chinese government's human rights practices, and other members of the transnational human rights network on occasion, as well as the influence of other network actors over the Chinese government. Therefore, in regards to this aspect, the spiral model is a more comprehensive explanation of changes in China's human rights practices than neorealism.

Consistent with the spiral model's phase three, characterised by tactical concessions, the Chinese government both practised instrumental adaptation and engaged with argumentative discourses throughout the 1991 to 2003 period. However, in contrast to the spiral model, the Chinese government was not engaging increasingly more in argumentative discourses than practising instrumental adaptation throughout the 1991 to 2003 period. This can be explained by the government's dominant identity continuing to be that of a great power, with interests reflected in its attempts to silence its critics and largely deny that it had carried out abuses. The Chinese government's great power identity was also reflected in its promotion of its engagement with international human rights forums that acknowledged an acceptance that being a great power included engaging in these international debates.

There were some indications throughout 1991 to 2003 that the Chinese government's identity may have been beginning to reflect more of the international human rights norms. However, these were fairly minimal indications, including acknowledgements in a number of human rights White Papers that some abuses were being carried out in China by law enforcement agencies, and a decreased use of the argument that human rights are an internal matter for a state. In addition, a number of government officials acknowledged the problem of corruption in the legal system and that workers' protests should be carefully dealt with, and some measures were introduced towards the end of the 1991 to 2003 period in attempts to improve the independence of the judiciary. By the end of 2003 these acknowledgements and improvements were not enough to indicate that the Chinese government's identity, interests and behaviours were reflecting international human rights norms to the degree that would suggest progression to the fourth phase of the spiral model, prescriptive status. In this phase the spiral model expects international human rights conventions and their optional protocols to be ratified, legislation to reflect international human rights norms, human rights complaints structures and institutions to be set up, and criticisms of human rights no longer to be labeled as outside interference.

The conclusion that the Chinese government was not showing progress to phase four by the end of 2003 is similar to Foot's finding that by 2000 the Chinese government was between phases three and four of the spiral model. However, in this thesis it is considered that China remains firmly in phase three rather than being between phases, the latter implying more progress than what has been concluded here. Foot suggests that the criteria indicating phase four has been reached should be less demanding and argues therefore that the Chinese government is between phases three and four. Phase four's criteria include institutional and legal changes consistent with international human rights norms that would indicate a deeper level of engagement and acceptance of international human rights norms. But these may still fall short of bringing about consistent state practices that reflect these norms, a criteria that would indicate phase five of the model, rule-consistent behaviour, has been reached. Therefore, here it is concluded that the Chinese government continues to be in phase three of the model rather than between phases three and four.<sup>4</sup>

Another factor contributing to the Chinese government's stalled progress to phase four, and also a reflection of its dominant great power identity, has been the government's ability to influence the enforcement mechanisms of international human rights norms. The behaviour of the Chinese government differs most from that expected of a target state by the spiral model in the actions it has taken to influence understandings of international human rights norms and their enforcement mechanisms, and the level of success it has been able to secure. The most significant example of this was evident from the late 1990s. By 1998 most support for resolutions on China at the UNCHR had ceased and China's preferred approach to human rights in international relations, the bilateral dialogue, had been adopted by most democratic states. The Chinese government's lobbying efforts had finally been successful almost a decade after the Tiananmen Square massacre to relegate discussions on its human rights practices from public international forums to confidential, behind-closed-doors meetings between government officials. Clearly the Chinese government has had a

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<sup>4</sup> See Rosemary Foot, *Rights Beyond Borders: The Global Community and the Struggle over Human Rights in China* (Oxford: Oxford University Press, 2000), p. 256.

significant influence over the structures that promote international human rights norms, and in the process it has been able to influence most democratic states in relation to how these norms should be enforced. This finding is consistent with Foot's conclusion that the Chinese government had not only become enmeshed in the international human rights regime, but had also been able to influence some of its enforcement mechanisms.<sup>5</sup> It is also consistent with Kent's conclusion that the Chinese government had become somewhat socialised into this regime at the same time as it had attempted to influence the operations of the UN human rights bodies.<sup>6</sup>

### **The Spiral Model and Alternative Explanations**

The finding that the Chinese government has been able to influence the enforcement mechanisms of international human rights norms highlights a shortcoming of the causal claims of the spiral model. It is a central claim of the spiral model that the target state's identity, interests and behaviours are increasingly influenced by ideational factors as it progresses through the model's phases. However, there is no one-sided chain of cause and effect impacting on the target state. Instead there is a constitutive relationship between the target state and international human rights norms – the identities and interests of the state are in a mutually constitutive relationship with international human rights norms. The model only conceptualises part of this relationship, the influence of these norms on the identities, interests and behaviours of a target state. It does not conceptualise the influence of the target state on international human rights norms. The spiral model only allows one conclusion – that target states progressing to later phases of the model themselves reinforce the validity of existing international human rights norms. This was the case for each of the target states examined by Risse et al. that progressed to phase four, none of which had the stature that the Chinese government has in the international system. Not only is China a permanent member of the UN Security Council, it is also an increasingly important

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<sup>5</sup> Ibid. pp. 270-72.

<sup>6</sup> Ann Kent, *China, the United Nations, and Human Rights: The Limits of Compliance* (Philadelphia: University of Pennsylvania Press, 1999), p. 242.



trading partner of many democratic states. Through these attributes China has had enough power in the international system, as well as a strong desire to defend its international image, to influence some of the enforcement mechanisms of international human rights norms.

The spiral model only conceptualises cases of very asymmetrical communication. In these cases observed by Risse et al. the communication flow and its outcomes were unidirectional. In the case of China, interaction was also asymmetrical but to a much lesser extent. By the end of 2003 the Chinese government had not adopted international human rights norms to the extent that they were well on the way to becoming institutionalised in its practices. In addition, despite there having been asymmetrical communication between the transnational human rights network and the Chinese government, the latter had been capable of minimising expressions of criticism and sanctions by other states.

Since the spiral model does not explore cases of less asymmetrical interaction, it cannot account for the Chinese government's influence over some of the enforcement mechanisms of these norms. In this instance, neorealism provides a useful explanation. The Chinese government has been able to use the international power it has gained, particularly through its increasing trade relationships with many of the democratic states, in order to promote its preferred bilateral approach to discussing human rights concerns. Neorealism can also explain in part why the Chinese government did not pressure the democratic states to cease all reference to human rights in bilateral relations. The EU and its larger members as great powers would have had enough economic power to be able to resist any such pressures from the Chinese government. However, a more complete account of this also requires a constructivist explanation. The identities of these democratic states have included the role of promoting respect for international human rights norms, with interests that promoted some place for human rights concerns in foreign policy. Thus any attempts by the Chinese government to demand that human rights not be raised at all by these democratic states were not likely to be accepted. In addition, the Chinese government

was not likely to go so far as to pressure for complete silence on human rights in its bilateral relationships because its own great power identity included the acceptance that this role required engagement with international human rights debates.

This is the extent of the usefulness of neorealism as an explanation of the changes in the Chinese government's human rights practices. Even though neorealism would appear to explain why the US government and the EU were able to influence the Chinese government to make tactical concessions that were aimed at appeasing these great powers, it does not account for the Chinese government's responses and concessions that were aimed at a range of other state and non-state actors. Nor does it account for the influence of these other actors over the great powers on occasions, for example, when NGO lobbying was able to persuade the US government and the EU to strengthen their responses to the Chinese government in the aftermath of the Tiananmen Square massacre by imposing sanctions. Since the spiral model can account for the influence of great powers as well as less powerful states and non-state actors over the Chinese government, and for the influence of less powerful actors over great powers, it is a better explanation than neorealism. This is in contrast to Ming Wan's finding that realism explains more of the Chinese government's responses to its external critics than constructivism since China's learning had only been adaptive, reflecting its understanding that Western governments could exercise their power to support their demands for human rights improvements.<sup>7</sup> However, this explanation fails to take into account the influence that less powerful actors such as international human rights NGOs have had over the actions of the more powerful Western governments. Neither does it account for the efforts the Chinese government has put into responding to less powerful state and non-state actors than the US government and the EU. Therefore, Ming Wan's finding is not convincing. Communication about the validity and applicability of norms has its own dynamics, influenced by but not reduceable to power calculations.

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<sup>7</sup> Ming Wan, *Human Rights in Chinese Foreign Relations: Defining and Defending National Interests* (Philadelphia: University of Pennsylvania Press, 2001), pp. 2, 13.

In addition to neorealism, the modernisation theory that emphasises increased political participation of the middle class as the link between economic development and democratisation was explored in this thesis as an alternative explanation to the spiral model. This theory was not found to be a useful explanation of the changes to the Chinese government's human rights practices. The Chinese middle class was still relatively small by the end of 2003 and had not agitated for democratisation. The concessions offered by the Chinese government had also not been direct responses to the concerns of the middle class but primarily responses to its external critics instead.

However, China's modernisation programme has had an indirect impact on the Chinese government's human rights practices from the time of greater international attention to human rights in China in 1989 to 2003. Since the commencement of the modernisation programme in 1978, many Chinese have become educated to the tertiary level and some of these have chosen legal and academic careers. This has meant there have been people in China who have been at least able to participate in international human rights debates on behalf of the Chinese government. Engaging increasingly with the global economy has also meant that China has made commitments to bring about legal reforms to facilitate international trade. This is likely to have contributed to the acquiescence of the Chinese government in bringing about a number of limited changes to its legal system consistent with international human rights norms. In addition, a potential link between economic development and democratisation may have been established by China's modernisation programme via the trend of the NPC becoming more independent of the CCP, the growing number of grassroots democratic elections, the development of cooperative interest groups in rural areas, and the increasing numbers and scale of workers' protests. If democratisation does result from these changes, some support would be provided for theories highlighting a correlation between economic development and democratisation. Accepting a correlation between economic development and democratisation would not mean, however, that the spiral model is no longer a useful explanation. From the time of greater international attention to human rights in China in 1989 to 2003 the model has at least accounted for many of the changes to the

Chinese government's human rights practices, though not in regards to the government's influence over the enforcement mechanisms, particularly those involving its state critics.

The ability of a powerful Chinese government to put forward counter criticism implies that it could remain in the tactical concessions phase for a long time as the conditions outlined by Risse et al. for progress to phase four are far from being fulfilled. The Chinese government has been particularly successful in influencing democratic states to reduce public criticism of China's human rights record. In addition, the low level of domestic mobilisation to pressure the Chinese government to improve its human rights practices means that this important source of pressure on China to progress to the later phases of the spiral model is lacking. Despite some changes to China's constitution and legislation being consistent with international human rights conventions and treaties, and the ratification of various UN human rights conventions, important characteristics of phase four, the Chinese government would appear to be a long way from achieving a rule of law with human rights institutions and complaints structures. This is indicative of the Chinese government continuing to identify with the role of being a strong, independent state that can influence the behaviour of other states, that is, a great power. By the end of 2003 the Chinese government's great power identity was clearly stronger than the identity it had acquired through the socialisation processes of the international human rights regime, that of a government that promotes and respects the human rights of its citizens, including the two core rights focused on in this thesis. This is consistent with Thomas' finding that 'state actors will comply with those norms that are connected to the most salient of their multiple identities, and violate or seek to change norms that are connected to less salient identities.'<sup>8</sup> It does not seem likely that this situation will change for the Chinese government in the near future.

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<sup>8</sup> Daniel C. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism* (Princeton, New Jersey: Princeton University Press, 2001), p. 15.

For the Chinese government to progress at all to phase four, the spiral model prescribes that consistent pressure be applied by domestic and international actors in the transnational human rights network. The implications of this for democratic states, international human rights NGOs, UN human rights bodies and Chinese opposition groups, as well as the likelihood of the transnational human rights network continuing to pressure the Chinese government over its human rights practices, will now be explored. The implications of this thesis' findings for future research will also be discussed.

### **Implications**

According to the spiral model, for the transnational human rights network to be able to apply consistent pressure on the Chinese government to bring about sustained human rights improvements, both domestic and international actors in the network need to be active. This means that not just international human rights NGOs and UN human rights bodies, but also democratic states and Chinese opposition groups must be willing and able to pressure the Chinese government. By the end of 2003 it was evident that the democratic states were no longer as willing to pressure the Chinese government to bring about improved human rights practices as they were in the aftermath of the Tiananmen Square massacre, and many of the Chinese opposition groups had been seriously hampered in their ability to apply such pressure.

Despite the continued efforts of international human rights NGOs since 1989 to place and then keep the human rights abuses of the Chinese government on the international agenda, from 1997 democratic states considerably decreased their willingness to publicly criticise these abuses. By the end of 2003, there were no indications from these states that their support for the bilateral behind-closed-doors approach to discussing human rights in China would change. The one exception to this is the US that continues to retain its right as superpower to criticise the human rights records of other states as it sees fit, including China. The trade relationships between the other

democratic states and China continue to grow and thus provide a potent incentive to these states to ensure an amicable relationship with China is promoted. This is likely to mean the continued avoidance by these states of any support for resolutions on China at the UNCHR or any other public forms of criticism. Instead, support for and participation in the bilateral dialogue approach is likely to continue.

Democratic states have been important actors in the transnational human rights network. Responding to pressures from international human rights NGOs, the pressure placed on the Chinese government by these actors in the aftermath of the Tiananmen Square massacre was pivotal in encouraging China to make the concessions that it did. No other transnational human rights network actors have had the direct influence on other states than democratic states have, particularly since 1989. These states have combined an identity that promotes respect for human rights often with a degree of economic power to provide pressures that a target state has heeded more than that of non-state actors. Thus the pressures that democratic states place on a target state are crucial to the potential of that state's progress through the spiral model. In this regard, it is not likely that continued support for and involvement in the bilateral approach by democratic states will provide the sustained pressure needed to progress the Chinese government to phase four of the spiral model that more public forms of pressure would.<sup>9</sup>

The human rights dialogue meetings and technical cooperation programmes that comprise the bilateral human rights approach largely involve middle level Chinese government and legal officials participating in private meetings and mostly small-scale training activities on human rights issues with democratic state officials and representatives. These activities have had the effect of largely removing the need for high-level officials of both the Chinese government and democratic states to engage on human rights concerns. Thus the most senior officials in the Chinese government now rarely feel international pressure to bring about further human rights

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<sup>9</sup> This is consistent with the findings of Ann Kent, "States Monitoring States: The United States, Australia, and China's Human Rights, 1990-2001," *Human Rights Quarterly* 23, no. 3 (2001), p. 624.

improvements since the dialogue approach has institutionalised discussions on human rights concerns at lower levels of government. In addition, the most senior officials of most democratic states can now also deflect criticisms from human rights NGOs that not enough pressure is being placed on the Chinese government by referring to the participation of middle level officials in dialogue meetings and technical cooperation programmes.

This is not to suggest that there is no merit in the dialogue approach at all but to highlight that without more public forms of pressure, this approach is not likely to pressure the Chinese government to bring about sustained human rights improvements. What reports there are on dialogue meetings indicate that even though these discussions provide some forum for human rights concerns to be raised, they are private talks largely involving only middle level officials discussing human rights issues in China in general terms, and are not focused on achieving specific outcomes that would lead to human rights improvements in China.<sup>10</sup> Some of the activities in technical cooperation programmes are reported to have been more focused on achieving specific outcomes and have involved middle level Chinese officials who are motivated to improve the services they provide to others in China in such a way that human rights are respected.<sup>11</sup> However, the small-scale size of these activities and the general lack of coordination between states and other actors facilitating these activities highlight the piecemeal nature of this approach.<sup>12</sup> Thus the dialogue approach may well be engaging motivated middle level Chinese officials and providing them with ideas on how to bring about human rights improvements within their spheres of influence. But this cannot compare with pressures placed directly on senior Chinese

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<sup>10</sup> See Human Rights In China, *From Principle to Pragmatism: Can "Dialogue" Improve China's Human Rights Situation?* (23 June 1998 [cited 5 December 2001]); available from <http://www.hrichina.org/reports/dialogue.html>. Human Rights In China, *The Human Rights Situation in China and the Dialogue on Human Rights* (2000 [cited 5 December 2001]); available from <http://www.hrichina.org/July2000-UKsubmission.html>.

<sup>11</sup> This was the general impression gained from interviews with Australian officials and legal professionals involved with the Australia-China TCP.

<sup>12</sup> Sophia Woodman, *Bilateral Aid to Improve Human Rights* (51 January-February) (China Perspectives, 2004 [cited 31 March 2004]); available from [http://www.cefc.com.hk/cgi-bin/restricted2\\_gb.cgi](http://www.cefc.com.hk/cgi-bin/restricted2_gb.cgi).

government officials who hold much more power to bring about human rights improvements within China.

The implications of this for international human rights NGOs is that sustained and increased pressures on democratic states are needed if these states are going to be motivated to accompany their bilateral dialogue approach to human rights in China with more public forms of pressure. It is likely that a great degree of such pressure would be needed to motivate these states to prioritise actions reflecting their identities as promoters of international human rights norms over actions reflecting national interests that prioritise economic concerns.

Increased pressures by UN human rights bodies similarly could help motivate the Chinese government to progress to phase four of the spiral model. With resolutions on China at the UNCHR not likely to be receiving support from most democratic states in the foreseeable future, this UN body is not going to be a significant source of pressure on the Chinese government. However, if other UN human rights bodies more independent of states, such as the Working Groups, Special Rapporteurs and the Human Rights Commissioner, increase their focus on human rights abuses in China then they may become even more important sources of pressure.

As found by Risse et al., one of the critical developments for a target state's progress through the spiral model's phases is the mobilisation of domestic opposition groups. During the period from the time of greater international attention to human rights in China in 1989 to 2003, the mobilisation of opposition groups declined. This mobilisation was at its highest during the demonstrations in cities throughout China that were followed by the killings in Beijing in June 1989. After this time, government repression disbanded many opposition groups and prevented others from establishing themselves in any widespread fashion. By the end of 2003 the growing scale of workers' protests appeared to be the most significant source of growing opposition. But it was not evident by this time that even these groups could organise on a national scale such that they could provide a source of serious opposition to the



government. Without a growing source of internal opposition to the Chinese government's human rights policies, it is difficult to see how the government will be motivated to the extent necessary to bring about sustained human rights improvements, even if outside pressures increase.

Future analysis of the Chinese government's human rights practices would benefit from research that is focused on the different actors within the Chinese government. Thomas found that a critical factor needed in order for target states to become fully socialised into the international human rights regime was 'an influential minority of elites' that were committed to making this socialisation happen. This influential minority were more likely to increase the government's identification with the international society that promotes respect for international human rights. The members of this minority were either already committed to the importance of being part of the international society that promoted and respected human rights, or had been persuaded to support this by the arguments of domestic and external human rights advocates.<sup>13</sup> This thesis has largely focused on official government statements and reports to ascertain the Chinese government's changing human rights attitudes and practices. To explore Thomas' finding in relation to the Chinese government, further research is needed that finds out more about the individual members of the Chinese government in order to provide a clearer picture of any agents for change within this government. This would facilitate predictions of the Chinese government's prospects for further socialisation into international human rights norms.

Further research is needed into the bilateral dialogue approach adopted by most democratic states in order to be able to more clearly assess the nature and outcomes of this approach. Given the very private nature of the human rights dialogue meetings, very little is known about what is discussed and the outcomes, if any, of these discussions. More is known about the technical cooperation programmes with a

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<sup>13</sup> Thomas concluded that this was a necessary condition to explain why the former Soviet Union and eastern Europe countries began a democratisation process in the late 1980s and early 1990s. Thomas, *The Helsinki Effect: International Norms, Human Rights, and the Demise of Communism*, p. 17.

number of published works focusing on these.<sup>14</sup> However, more detailed examination of the actors involved and any outcomes of these programmes are needed to provide a clearer picture of the effectiveness of this approach.

Research focused on the application of the spiral model regarding rights other than the two core rights that are the subject of this thesis would also be beneficial. In particular, research into the applicability of the spiral model to a state's practices affecting economic and social rights. China's modernisation programme and the growing numbers and scale of workers' protests indicate that China would be a pertinent case study on the effects of internal and external pressures on this state's changing economic and social practices.<sup>15</sup>

Finally, research into the pressures placed on democratic states to improve their human rights practices, and their responses to such pressures, would be greatly beneficial. This is not only to increase the spotlight on human rights abuses in these states, but also to further our understandings of the degree to which internal and external pressures applied to these states have influenced their practices.

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<sup>14</sup> Human Rights In China, "Funding the Rule of Law and Civil Society," *China Rights Forum*, no. 3 (2003), 22-35. Woodman, *Bilateral Aid to Improve Human Rights*.

<sup>15</sup> Some focus on this has already been provided by Joseph P.A. O'Mahoney, "Spiralling into Ratification: An Analysis of China's Ratification of the International Covenant on Economic, Social and Cultural Rights" (Masters Dissertation, University of Kent, 2004).

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