

**HUMAN RIGHTS, LAW, AND DEMOCRACY:
FINDINGS AND RECOMMENDATIONS**

The Penn Project on the Future of U.S.-China Relations presents the following findings and recommendations from its Human Rights, Law, and Democracy group. The [policy papers](#) on which they are based, a [video](#) of the October 16th webinar featuring these authors, and additional information can be found on the Project [website](#).

What Happened to Democracy in China?

[Amy Gadsden](#), University of Pennsylvania

Findings:

1. For decades, U.S. policies sought to promote what was then growing liberalization and political reform in China, which had produced an active civil society, growing media sector, and lawyers and legal academics who advocated the rule of law, individual rights, balancing competing social interests, accountability, and good governance.
2. Starting in the mid-to-late-2000s, and especially after Xi Jinping came to power, China “turned against” reform, and the U.S. pulled back from promoting human rights and democracy in China. In the 2010s, a narrative took root in the United States that “engagement with China failed,” and that the U.S. was naïve to believe that China’s participation in multilateral trade and security regimes would foster political liberalization.
3. This ostensibly “realist” and largely bipartisan view encourages U.S. policymakers to conclude that China cannot change, fails to support those in China who favor change, and risks leaving U.S. policy unprepared to address the potential for political change in China.

Recommendations:

1. Although U.S. policy may not succeed in changing China, it should advocate changes that align with U.S. interests in advancing human rights and democracy. Such an approach is better than not engaging on these issues at all (or inconsistently), and thereby calling into question whether these values are a priority for U.S. policy.

2. U.S. policies should press for higher standards of trust and transparency in China, especially in public health, economic markets, environmental policy, the legal system, the media, and China's international engagements.
3. U.S. policy should support groups in China that align with U.S. interests, such as ordinary Chinese citizens (through people-to-people exchanges), individual victims of human rights abuses (by publicly addressing their fates), civil society groups, and Chinese students in the United States (by reversing recent excessively restrictive and hostile rhetoric and policies).
4. U.S. policy should seek to hold China accountable for its actions internationally (including in international institutions where China's influence has been increasing), and support U.S. academic and other private sector institutions when they face pressure from the Chinese government to compromise core values such as freedom of speech and inquiry.

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Supporting Civil Society in China

Daniel Mattingly, Yale University

Findings:

1. Rather than challenging the state, many civil society groups in China help the Communist Party govern by providing feedback on policies (thus enabling the regime to adjust policies), providing services (especially during disasters), and helping the state identify and defuse protest.
2. The U.S. government and NGOs, foundations, and universities should not expect that their support for civil society in China will lead to political change.
3. U.S. government and NGO agendas that push for liberal values and political reform sometimes can backfire, playing into a CCP propaganda narrative that the U.S. is attempting to sow disorder in China.

Recommendations:

1. Despite the risk of failure or counterproductive results, American public and private actors should continue to support Chinese civil society when so doing advances American interests and core values (including human rights and academic freedom).
2. Both the U.S. government and private actors should pursue cooperation with Chinese civil society in areas of mutual benefit, for example on fighting climate change and future global health threats.
3. The U.S. government and private actors should continue to advocate for core values including human rights and academic freedom. Such support, especially for human rights, should be transparent to help combat propaganda from the CCP that these efforts are part of covert efforts to create instability in China.
4. The U.S. government, universities, and NGOs should increase, not decrease, support for exchange programs such as Fulbright that deepen American knowledge about China—which is essential for effective U.S. policymaking—and have the potential to increase mutual trust.

What Path Forward for U.S.-China Legal Exchange?

Neysun Mahboubi, University of Pennsylvania

Findings:

1. Legal exchange between the U.S. and China—including education of Chinese students in U.S. law schools, training offered by U.S. legal professionals in China, provision of U.S. materials for Chinese legal institutions, and bilateral dialogues among legal counterparts—has been a productive area of U.S.-China relations throughout China’s Reform and Opening period.
2. U.S.-China legal exchange has faced growing challenges since the mid-to-late-2000s, amid the Chinese government’s heightened sensitivity to perceived foreign interference following the Color Revolutions and the Arab Spring, the loss of American prestige in the Global Financial Crisis, and the resurgence of political and ideological criteria in China’s legal institutions.
3. Despite these difficulties—exacerbated by the downturn in U.S.-China relations—there remain targets of opportunity for U.S.-China legal exchange in areas of shared regulatory challenges, including new (peer-to-peer) economy issues, food and drug safety, environmental protection, data privacy, artificial intelligence, and public health.

Recommendations:

1. U.S. government regulators should expand working relationships with Chinese counterparts—building on efforts toward international regulatory cooperation under prior U.S. administrations—by emphasizing the trade benefits of regulatory compatibility, as well as the need to mitigate the effects of cross-border regulatory failures (most recently highlighted by the COVID-19 pandemic).
2. U.S. foundations and universities should focus attention and resources on shared regulatory challenges in their work supporting U.S.-China legal exchange, given the high receptivity of Chinese counterparts to dialogue on these issues, and the still-robust potential to highlight liberal legal values (including participation, transparency, and accountability) embedded in the U.S. approach to regulation.
3. U.S. foundations and universities should continue traditional U.S.-China legal exchange efforts, on topics like criminal law and public interest lawyering, to the extent feasible. They should, however, be mindful that such efforts will remain difficult, at present, and also will need to adapt to the increased sophistication of Chinese interlocutors, including about domestic legal challenges in the United States.

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Human Rights in China: The Case of Xinjiang

Darren Byler, University of Colorado, Boulder

Findings:

1. Following 9-11, Chinese authorities applied an official rhetoric of “terrorism” and “Islamic extremism” and, over time, techniques of “counter-terrorism” to justify oppressive policies toward the entire populations of 13.5 million Uyghurs and Kazakhs. This has resulted in one of the most horrific human rights crises in the contemporary world, including mass imprisonment, internment in reeducation camps, forced labor, eugenics programs, family separation, and punishment for thought crimes.
2. These actions are only the latest manifestation of a decades-old Party-state view of human rights that emphasizes a right to security and national self-determination as protections for the Han Chinese as a group, and subordinates the rights of political, religious, and ethnic minorities.
3. PRC laws that equate democratic protest with terrorism, separatism, and sedition have extended beyond Xinjiang to other areas, including Tibet and Hong Kong. Targets of these measures are depicted as a “savage other” population from which the majority of PRC citizens, and the state, must be protected.

Recommendations:

1. The U.S. should rejoin the UN Human Rights Council, and build coalitions with G10 allies as well as nations in the developing world, in order to develop collective, transparent, and authoritative findings and responses to human rights abuses in Xinjiang and elsewhere in China.
2. To make such an approach effective, particularly with Muslim-majority nations, the U.S. should acknowledge its responsibility for the Global War on Terror, build a robust refugee resettlement program for Uyghurs and Kazakhs, and reverse anti-refugee and anti-Muslim immigration policies.
3. The U.S. should enforce carefully targeted moratoriums on dealings with companies with clearly documented involvement in the Xinjiang forced labor systems.
4. U.S. civil society organizations should work to amplify the narrative of Uyghur and Kazakh experiences to global audiences, should pressure global brands to demonstrate supply chain transparency and pay reparations to the Uyghur and Kazakh communities for harms caused, and should join with Hong Kong democracy advocates to campaign to relocate the 2022 Winter Olympics.