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Finding Firmer Ground: The Role of Civil Society and NGOs in U.S.-China Relations

A Report on U.S.-China Relations

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About the Organizers

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Forward by President Jimmy Carter



JIMMY CARTER

Four decades ago, when Vice Premier Deng Xiaoping and I announced our decision to establish full diplomatic relations between the United States and the People's Republic of China, we knew that we were opening an era of opportunity for both nations. I am proud to have witnessed the benefits that followed, including peace in East Asia, expanded bilateral trade and investment, and a prosperous friendship between the American and Chinese people.

Yet, the relationship is under significant strain. In recent years, government officials in both countries have adopted rhetoric and policies that reflect the hostility that Vice Premier Deng and I sought to calm in 1978. Elites in China have claimed that America is conspiring to overturn the Chinese Communist Party, and prominent Americans have cast China as an existential threat to national security and global democracy. The trade war between our two countries remains protracted, and a critical lack of dialogue persists.

As I wrote in an op-ed in *The Washington Post* in 2018, there are serious problems in the relationship that need to be addressed. Intellectual property rights must be respected, trade imbalances and barriers must be negotiated, and issues of national security for both nations must be clearly understood and respected. The decision to shut down exchanges between the American and Chinese people, such as the Fulbright Fellowship, Confucius Institutes, and the expulsion of journalists, threaten to erect walls of mutual ignorance.

Nonetheless, the United States and China are, and must remain, closely connected. The Chinese people continue to consume billions of dollars in American agricultural products, Americans buy vast quantities of Chinese manufactured goods each year, and our interests frequently overlap in the developing world and in the fight against climate change. Despite challenges between our governments, I am confident that both the American and Chinese people desire peace and prosperity over conflict. Together, they can call on their respective leaders to abandon irrationality and mutually destructive policies, and to instead restore trust, respect, and normalcy between our nations.

To encourage this course correction, the following report addresses the role of American and Chinese civil society in reviving and reinvigorating the U.S.-China relationship.

Introduction

By **Yawei Liu, Susan Thornton, and Robert A. Kapp**

Little more than four decades ago, President Jimmy Carter and Vice Premier Deng Xiaoping resolved to establish full diplomatic relations between the United States of America and the People's Republic of China. Until that fateful moment in December 1978, ideological conflict between the United States and the Soviet Union had spilled into Asia, bringing the United States into armed conflict and confrontation with China on the Korean peninsula and in Vietnam. Building on the initial steps undertaken by their predecessors, Richard Nixon and Mao Zedong, at the beginning of the 1970s, Carter and Deng normalized relations not only to pursue shared concerns over the Soviet threat, but to advance the goal of peace in Asia and reap the benefits of commercial and cultural relations.

As policymakers and scholars now assess the merits and legacy of U.S.-China engagement, the positive results remain clear. In the four decades since normalization, the Asia-Pacific region has remained free from international war. Engagement contributed to the steady decline and collapse of the Soviet Union, which brought about an end to the Cold War. It facilitated the growth of a prosperous relationship spanning trade, tourism, and investment, along with cultural exchanges that brought the American and Chinese people closer together. Over time, engagement between the U.S. and China has also fostered cooperation across multiple international fronts, including nonproliferation, anti-piracy, peacekeeping, and development assistance.

Engagement also enabled China to become an indispensable part of globalization, laying the groundwork for Chinese entry into the World Trade Organization in 2001. It contributed to the rise of hundreds of millions of Chinese out of poverty and transformed the collapsing economy of the late 1970s into the world's second largest one by 2010. Chinese students and scholars were able to study and conduct research in the U.S.; many of them stayed in America and became naturalized citizens. America also benefited immensely from this engagement. Its economy pivoted increasingly to the high-technology sector. Universities in the U.S. boomed from the massive infusion of Chinese students. American research institutions flourished from the talent and contributions of Chinese researchers working alongside their multinational and American peers. A growing stream of Chinese investments into the United States created new jobs across sectors of the U.S. economy, and affordable manufactured goods from China continue to benefit the lives and pocketbooks of many ordinary Americans.

However, as the early decades of U.S.-China engagement transformed the landscape of bilateral relations, it has become clear that the U.S. and China saw the end goal of engagement in deeply distinct terms.

Contrary to many Americans' expectations, China's growth and global integration has not brought political liberalization. Instead, China has become increasingly ambitious, assertive, and authoritarian. China's abusive treatment of ethnic minorities, its violation of the principle of "one country, two systems" in Hong Kong, its heavy-handed approach toward Taiwan, its coercive behavior toward foreign nations perceived as unfriendly, its continuing neglect of rules in international trade and investment, its failure to address privacy and security concerns related to data collection and internet technology, and its lack of transparency regarding the COVID-19 outbreak have all been cited in the U.S. as causes of sharp decline in the bilateral relationship. Consequently, public opinion among U.S. citizens and members of Congress has lurched downward in recent years.

The U.S. under President Donald Trump has also contributed to the rapid deterioration of bilateral relations. By late 2017, what was initiated by the Obama administration as a "pivot" to Asia has increasingly become an effort to contain and decouple from China. Abandoning bilateral dialogue in favor of unilateral action, the Trump administration launched a protracted trade war, stoked popular fear about an ascendant China, closed cultural and educational exchange programs, ejected journalists, shuttered the Chinese consulate in Houston, and magnified concerns amongst Chinese political elites that the U.S. is seeking to overthrow the Chinese Communist Party itself. Now, discussions abound in the U.S. that it is entering a new Cold War with China.

However, the relationship between the U.S. and China should not be compared to that between the U.S. and the Soviet Union before the USSR's collapse in 1991. The Washington-Moscow confrontation was a battle between truly different systems of political and economic governance. That Cold War, though, was characterized by the near-complete absence of people-to-people exchange and the complete absence of economic interdependence. Isolated as America and the Soviet Union were from one another, there were few opportunities for mutual interests, personal contacts, and economic exchange.

By contrast, the U.S. and Chinese economies remain deeply interconnected. Ideological competition does not play an outsized role in the relationship, and while military apprehensiveness and political disagreements are emerging more frequently, visions of a future of peaceful coexistence and cooperation have not yet disappeared.

As President Carter described in the foreword of this report, intolerance of criticism and a mutual lack of self-reflection lie at the heart of the deteriorating U.S.-China relationship. Both nations struggle with severe domestic problems related to racism, injustice, repression, and economic inequality. At the same time, both nations react harshly to criticism from one another. China regularly castigates the U.S. government for allegedly interfering in China's internal affairs. For its part, the U.S. dismisses Chinese criticisms of its behavior on the basis that China is a "Marxist-Leninist" dictatorship and therefore unworthy of respect.

As President Carter wrote in his 2018 Washington Post op-ed titled "How to repair the U.S.-China relationship — and prevent a modern Cold War":

“Americans must acknowledge that, just as China has no right to interfere in U.S. affairs, we have no inherent right to dictate to China how to govern its people or choose its leaders. Though even countries with the closest of relationships may critique each other at times, such engagements should never become directives or edicts; they should rather serve as a two-way street of open dialogue. China’s achievements in sustaining economic growth, alleviating abject poverty, and providing developmental assistance to other countries need to be celebrated. At the same time, we cannot ignore its deficiencies in Internet censorship, policies toward minorities and religious restrictions — which should be recorded and criticized.”¹

It is no secret that countless issues of domestic and international concern require American and Chinese attention. How can both nations preserve the benefits of stable interaction, cooperate on pressing matters of international concern, and engage in open dialogue and self-reflective criticism? In light of each nation’s intransigence, how can the U.S. and China reverse the current trend toward decoupling?

The Carter Center, with generous support from the Ford Foundation and the National Association of Chinese Americans, assembled a small group of scholars, researchers, and professionals from the U.S. and China to ponder this challenge and develop ideas aimed at meeting the crisis. With official engagement at a near standstill, this report specifically examines how Chinese and American civil society, including nongovernmental organizations, might improve cooperation, dialogue, and management of security risks between the U.S. and China.

We believe this report distinguishes itself from many other reports produced by U.S.-based think tanks and research institutions for the Biden administration. First, the primary goal of this report is to provide pragmatic, future-oriented, and actionable proposals for nongovernmental organizations, including educational institutions, think tanks, and broader civil society. Second, this report is binational in nature. It employed independent teams in the U.S. and China to effectively capture the unique perspectives of each side. Third, this exercise will be repeated each year with an evaluation and assessment of the evolving changes in the bilateral relationship with new recommendations for civil society in both countries.

The “engagement” of the coming decade will, by definition, not be the “engagement” ignited by President Carter and Vice Premier Deng more than 40 years ago. It will be a new paradigm of engagement rooted in altered circumstances, novel aspirations, transformed insecurities, and promising opportunities. Americans and Chinese must continue to “engage” culturally, educationally, economically, and financially.

This report looks back with respect and admiration on the decision of America’s and China’s leaders to restore normal diplomatic relations after a 30-year hiatus that witnessed

¹ See https://www.washingtonpost.com/opinions/jimmy-carter-how-to-repair-the-us-china-relationship--and-prevent-a-modern-cold-war/2018/12/31/cc1d6b94-0927-11e9-85b6-41c0fe0c5b8f_story.html

war, economic isolation, and the bitter evaporation of long-standing contacts between the American and Chinese people. Its recommendations seek to contribute to an updated vision of U.S. engagement across the next century.

Report Methodology

The primary goal of this report is to provide recommendations to Chinese and American civil society about how the bilateral relationship can be preserved and how engagement can be expanded. Although civil society is understood differently in the U.S. and China,² it can be broadly defined as organizations which are “generally non-profit distributing and self-governing, and operate in the public sphere.”³ For the purposes of this report, these include nongovernmental organizations, business and trade associations, think tanks and research institutes, philanthropic and religious missions, and educational institutions. Notably, the Chinese authors involved in this report felt strongly that their research should focus on recommendations for the Chinese and American governments.

In developing these recommendations, this report employed a unique framework inspired by the American and Chinese diplomatic communities to identify, classify, and prioritize bilateral and international matters of concern. This intellectual exercise helped guide the authors in selecting which issues were analyzed.

Academics, professionals, and researchers from both the U.S. and China were first recruited into two independent teams to draft the report in parallel. One team consisted of authors residing in the People’s Republic of China, while the other team consisted of authors residing in the United States of America. Each team was tasked with identifying and categorizing bilateral and international issues into three broad categories: (1) issues over which the U.S. and China have mutual interest in cooperation; (2) issues over which the U.S. and China should conduct dialogue; and (3) issues over which the U.S. and China must commit to peaceful management of their disagreements. Each team identified the issues categorized independently of one another, and items in each category were left unranked.

Once categorized by both teams, the lists were exchanged, and mutually convergent issues were identified. Convergent issues constituted the foundation of this report. Each list can be found in the next two pages.

² We acknowledge that the Chinese conception of civil society differs somewhat from that of the U.S.; see pages 3-4 of Elizabeth Knup 2019, “The Role of American NGOs and Civil Society Actors in an Evolving US-China Relationship,” <https://www.cartercenter.org/resources/pdfs/peace/china/china-program-2019/knup.pdf>

³ *Ibid.*, 3.

Table 1

American-side Categorizations

Cooperation (合作)	Dialogue (对话)	Management (管控)
Environmental Protection [climate change, pollution, sustainability]	Legal Systems [foreign NGO laws and civil society engagement, intellectual property, law enforcement]	Taiwan Strait [Taiwan status, arms sales]
Public Health & Infectious Disease Prevention [COVID, vaccine distribution, supply chains]	Global Governance [public health, development finance, infrastructure, regulations over emerging technology, de-risking, Arctic, United Nations reform and treaty implementation]	South China Sea [militarization, freedom of navigation]
Drug Trafficking [narcotics, fentanyl]	Great Power Relations [gray zone operations, freedom of navigation, nuclear doctrine, space demilitarization, military-to-military communication, BMD, redlines]	Hong Kong [autonomy]
Global Financial Governance [debt, transparency, coordination]	Trade Relations (market access, tariffs)	Human Rights [Xinjiang, Tibet, ethnic minorities]
Korean Peninsula Stability [sanctions, denuclearization]	Cybersecurity [hacking, cybercrime]	Ideology/Regime Type [doctrine, political appointments, elections, internet governance, propaganda]
People-to-People Exchange (language, culture, arts)	Human Rights [Xinjiang, Tibet, ethnic minorities]	Cybersecurity [hacking, cybercrime]
Afghanistan Peace Process	Journalism/Media Policy [reciprocity]	Crisis Stability [military-to-military dialogue, communication, hotlines]
Crisis Stability and Communication	Maritime Domain [Grey Zone Operations, Rules of Engagement, Freedom of Navigation]	East China Sea [Senkaku/Diaoyu Islands]
Sustainable Development [including the African continent]	Korean Peninsula Stability [sanctions, denuclearization, redlines]	
Nonproliferation/Arms Control	Consular Relations [visas]	
Terrorism and Piracy		

Natural Disasters [including military-to-military engagement]	Education [codes of conduct, engagement]	
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Table 2
Chinese-side Categorizations

Cooperation	Dialogue	Management
Public Health & Infectious Disease Prevention [COVID-19, vaccine development and distribution, global warning and prevention system]	Trade and Investment Rebalancing [tariffs and sanctions, market access, currency manipulation subsides, competition neutrality, BIT]	South China Sea [COC, FONOPs]
Sustainable Development and Environmental Protection [Renewable energy, quality infrastructure, climate change, Sustainability Goals by UN, carbon pricing]	Tech Decoupling [entity list and export control, 5G, dual use tech, investment restrictions, emerging tech standards and regulations]	Taiwan Strait [One China Principle, arms sales, TAIPEI Act, military deterrence]
Nonproliferation/Arms Control [Korean Peninsula stability, denuclearization, reconciliation, Iran nuclear issue]	Digital Economy and Cybersecurity [digital tax, digital data security, cybercrime, privacy]	Hong Kong [sovereignty, security, democracy, autonomy, sanctions]
Humanitarian Aid and Disaster Relief [Peacekeeping in Crisis areas, Afghanistan, Syria, Africa etc.]	Global Governance Reform and Improvement [WTO, WHO, World Bank, IMF, UNCCC, Arctic Council]	Nationalist & Populist Rhetoric and Abuse of “National Security” [conspiracy theories, propaganda, mutual popular resentment]
Counterterrorism, Piracy, Drug and Human trafficking and Corruption [fentanyl, money laundering, modern slavery]	Human Rights and Disinformation [human rights dialogue, social media management, racial and ethnic relations, Xinjiang issue]	Ideological/Institutional Attacks [defame leadership, delegitimizing governance, promoting color revolution, facilitating internal strife]
Macroeconomic Coordination and Global Financial Governance [fiscal and monetary policy, debt control]	People to People Exchange [educational and academic exchanges,	General Demilitarization [missiles, various drones, space, cyber, close surveillance, excessive and provocative exercises]

and relief, financial transparency]

Trade Investment Expansion and Protection of IPR [Phase II trade deal, agriculture and energy trade, ipr and tech transfer legal framework]

student and visiting scholar visas, journalists and diplomats, “foreign influence operations”]

The Case for Cooperation: Advancing national and global interests by empowering NGOs

By **Nathaniel Ahrens** and **Matthew Chitwood**

The Case for Cooperation

Cooperation has been a central component of the U.S.-China relationship since relations were normalized in 1979. However, neither side has cooperated simply for cooperation's sake. Broad-based cooperation has served the self-interests of both sides, in areas ranging from trade and investment to security, from scientific research and student exchanges to tourism. Cooperation has also functioned as critical ballast, steadyng a relationship fraught with political, economic, ideological, and security tensions.

Today, with U.S.-China relations spiraling to their lowest point since normalization, the extent of cooperation has contracted and become politically toxic. Politicians on both sides of the Pacific fear that their domestic bases will see them as "weak on China" or capitulating to "Western hegemonic powers." American hawks and Chinese wolf warriors dominate the headlines, vilifying the other side and drowning out pro-engagement voices. When cooperation is mentioned, it is rarely more than an afterthought tacked onto a long list of grievances, while those who promote cooperation are viewed as intentionally or naively overlooking the thorny aspects of the relationship.

There are strong arguments against unfettered, blanket cooperation between the United States and China. Economic and technological interdependence have revealed vulnerabilities that present real threats to the security of both nations. Both governments have stated that economic security is a core part of national security, moving the trade relationship into a more strategically competitive arena. Competition around emerging technologies has also increased tensions, as not only do they enhance economic competitiveness but also bestow military advantages. Conflicting strategic interests, especially around the South China Sea and Taiwan, are exacerbated by underlying ideological conflicts and issues of national identity. As relative power shifts across all aspects of the relationship, both countries are experiencing an increase of friction that is expected to continue.

For the United States, China's rise suggests it will supplant international norms and challenge the global order. Ideological differences also result in hard-to-reconcile human rights issues that cannot be fully isolated from other aspects of the relationship. Abuses in the Xinjiang Uyghur Autonomous Region and Hong Kong have made cooperation on other areas difficult for the United States. China's use and facilitation of digital surveillance tools

worldwide strengthen anti-democratic forces that are anathema to American political and social values.

From China's standpoint, the United States seems intent on suppressing China's growth and changing its system. This includes calling for regime change and using language perceived as trying to drive a wedge between the Chinese Communist Party (CCP) and the Chinese people, both considered by China as inappropriate interference in its internal affairs. This sort of rhetoric increased dramatically during the Trump administration and served to solidify long-standing suspicions in China about U.S. intent.

Despite the many competitive and contentious areas of the relationship, it is in both countries' best interests to cooperate on some issues. The United States and China both have national interests in stopping illicit drug trafficking, combatting piracy, and maintaining stability on the Korean peninsula. But there are also some issues that extend beyond respective national interests to an ethical and moral imperative of cooperation for the global good. Climate change and global pandemics are two such issues.

During the Cold War, the United States and Soviet Union not only managed to cooperate with each other on public health⁴, together they led the world to eradicate smallpox.⁵ Where government-to-government cooperation was limited, scientific and health NGOs bridged the gap. If Soviet-American cooperation was possible during the Cold War, certainly the United States and China can cooperate now. The United States and China have already overcome significant differences in order to address the global financial crisis, outbreaks of SARS and Ebola, and the production and consumption of hydrofluorocarbons.⁶ Now, with more pressing global needs, the two countries should turn their collective attention to climate change and pandemic prevention.

Cooperation on Climate Change and Pandemic Prevention

Climate change and pandemics present two of the greatest challenges to global stability, both independently and as tipping points for other potential crises. Both have spillover effects on economic growth, political stability, national security, debt, and migration. Aside from world war and nuclear catastrophe, we are hard-pressed to find two issues with more potential for causing global misery. Without U.S. and Chinese leadership and cooperation

⁴ We use the term "global health" to refer to transnational health issues, and "public health" to describe the broader set of health issues that exist in an individual country. There are instances where this delineation is not clear, and we use them interchangeably.

⁵ Sean B. Carroll, "At the height of the Cold War, the US and Soviet Union worked together to eradicate smallpox," *World Economic Forum*, July 19, 2016, <https://www.weforum.org/agenda/2016/07/at-the-height-of-the-cold-war-the-us-and-soviet-union-worked-together-to-eradicate-smallpox/>

⁶ See Susan Rice, John Podesta, Hank Paulson, Mike Leavitt, Tommy Thompson, Jack Chow, "Six Crises," interviewed by Evan Feigenbaum, Carnegie Endowment for International Peace, audio, <https://carnegieendowment.org/programs/asia/six-crises>.

on climate change and pandemics, the entire world is at risk of becoming less prosperous, hospitable, and secure.

Cooperation in these areas is critical, but the current geopolitical environment makes it challenging. The United States and China need to make efforts to build a firewall around these areas, protecting them from the contentious areas of the relationship. While there is a good argument for some issues to be linked—human rights abuses in Xinjiang and trade in cotton goods or surveillance technology, for example—critical areas such as climate change and pandemic prevention should not be held hostage to other competing interests. Despite domestic political headwinds in both countries, these are not zero-sum, but rather true examples of win-win cooperation.

Despite the overwhelming rationale for cooperation on these issues, the geopolitical reality is that even with the change in U.S. administration, tensions between the U.S. and China are likely to increase, making cooperation difficult. The U.S. Congress remains focused on both real and perceived threats to American dominance and will place practical limits on White House attempts to make cooperative overtures to Beijing. Much of this will be justified. The extensive list of issues to deal with, from Taiwan and the South China Sea, to human rights abuses in Xinjiang and Hong Kong, to trade disputes and competition in emerging technologies, makes competition and confrontation the more likely framework for relations. Similarly, Beijing may be making rash assumptions about American decline in a manner similar to that in the aftermath of the 2008 global financial crisis, leading to overconfidence and excessively nationalist rhetoric.

Even more daunting is the fact that respective domestic politics hinder the most meaningful action on climate change and global health.

In the United States, both climate change and COVID-19 have become politicized to a degree that makes substantive action difficult. Caught up in the hyper-partisanship of American politics and hindered by a federal system that places key authority in the hands of states, climate change is a highly complex collective action problem that the U.S. system of government is not particularly well positioned to tackle. And one of the greatest tragedies of the Trump administration may be the politicization of public health measures to contain the COVID-19 pandemic.

In China, home to half the world's coal capacity, it is proving a challenge to reduce fossil fuel usage while simultaneously spurring economic growth and preventing a further drop in employment. Even while the government makes bold commitments to become carbon neutral by 2060, coal-fired power plants are financed and built domestically and abroad by China at an increasing rate.⁷ On pandemic prevention, the Chinese government has been reluctant to increase transparency and cooperation, appearing more interested in shifting

⁷ David Stanway, "China's new coal projects account for 90% of global total in first half – study," *Reuters*, August 3, 2020, <https://www.reuters.com/article/us-china-coal/chinas-new-coal-projects-account-for-90-of-global-total-in-first-half-study-idUSKBN24Z00B>

blame than in identifying the origins of the virus and preventing future outbreaks.⁸ The Trump administration's focus on blaming China for the pandemic has also painted China into a tight corner in terms of its willingness to increase transparency and cooperation.

While climate change and pandemics are two of the greatest challenges faced by both the United States and China, and neither of these is solvable without the cooperation of the other country, the unfortunate political reality is that it may take time for the two governments to come together on these issues.

Still, there are important actions that each country can take independently that require minimal cooperation. Moral imperatives aside, climate change presents economic and national security risks to both countries. It is in each of their best interests to take steps to mitigate and adapt to global warming. In this low-trust geopolitical environment, both countries should focus initially on domestic green jobs and the potential for new areas of economic growth, rather than depending solely on commitments in global agreements.

The Biden administration's elevation of climate change to a top priority, along with its decision to re-join the Paris Agreement, will certainly be important, but in terms of measurable decreases in emissions, the near-term effects are likely to be limited. Instead, framing American action in terms of retaking a seat at the global leadership table and spurring domestic job growth should be top priorities. Restrictions on oil and gas companies' methane emissions should also be retightened.

For China, the commitment to be carbon neutral by 2060 is a substantial pledge. Previously, China chafed at the notion that it should have to reduce emissions to the same degree as developed nations who are responsible for most of the stock. But, as the world's largest emitter of fossil-fuel carbon dioxide, achieving this goal will require reducing its dependence on coal while at the same time coping with rising energy demand and downward pressures on employment.

On the pandemic and global health fronts, the White House has rightly rejoined the World Health Organization (WHO). Despite WHO's imperfections, maintaining a seat at the only global organization specifically tasked with addressing pandemics is an almost *de minimis* expression of U.S. leadership and the best way to effect change. Reform is best pushed from within the organization. Additionally, joining COVAX, if the Biden administration can get Congress to agree, would send an important message to the world about America's return

⁸ See for example Guoxiu Wu, "CGTN Exclusive: Interview with WHO expert coming to China on COVID-19 origins," *CGTN*, January 11, 2021, <https://news.cgtn.com/news/2021-01-11/CGTN-Exclusive-Interview-with-WHO-expert-to-China-on-COVID-19-origins-WXVDUh1kL6/index.html>

to the global stage. Increasing staffing of U.S. health officials and scientists in China is also low-hanging fruit.⁹

The Chinese government, in turn, should approve the visas of U.S. health officials and scientists as the Biden administration re-staffs these vacancies. The Chinese government should also improve cooperation with the WHO and be more responsive to WHO requests for information than it was in January 2020.¹⁰ Recriminations against reporters and medical professionals who spoke out about the pandemic should stop. While China implemented strong measures in response to the COVID-19 outbreak, retaliation against outspoken citizens and the lack of transparency reduces the effectiveness of domestic and global responses to this and future health crises and also diminishes China's credibility and reputation.

However, the fact that government-to-government opportunities for cooperation are limited does not preclude important cooperative progress on these critical issues. While the high-level actions recommended above would send important signals about global action on climate change and public health, it is not governments, but nongovernmental organizations (NGOs) that are responsible for much of the substantive work on these issues. While the term "NGO" is used differently in the U.S. and China, we use an expansive, literal definition to include educational and research organizations, nonprofit organizations, foundations, hospitals, and public and private companies.¹¹ These organizations remain the best channel for making near-term progress. Therefore, one of the most effective measures governments can pursue is to create a more positive and enabling environment for NGOs to continue cooperative action.

The Role of NGOs in Cooperation

Over the last 50 years, NGOs have served as the backbone of ever-evolving U.S.-China relations. Starting in the 1970s, people-to-people exchanges and scientific and technical collaboration began to shape the U.S.-China relationship. Since then, the flow of scientists, academics, students, businesspeople, and nonprofit employees has grown and propelled tremendous positive changes on both sides. Businesses and trade have created more prosperity and jobs for both countries. Research collaboration has accelerated scientific progress. Educational exchanges have promoted mutual understanding. And environmental nonprofits have combated wildlife trafficking, protected the ocean, and kept

⁹ This includes staff from the Centers for Disease Control, the National Science Foundation, the United States Agency for International Development, and the U.S. Department of Agriculture. The U.S. Field Epidemiology Training Program in China should also be re-staffed.

¹⁰ "China delayed releasing coronavirus info, frustrating WHO," *The Associated Press*, June 2, 2020, <https://apnews.com/article/3c061794970661042b18d5aeaad9fae>.

¹¹ For more on this, see Elizabeth Knup, "The Role of American NGOs and Civil Society Actors in an Evolving US-China Relationship," *The Carter Center*, 2019, <https://www.cartercenter.org/resources/pdfs/peace/china/china-program-2019/knup.pdf>, pp.3-4.

climate change at the top of the agenda. While policymakers often focus on governmental power, it is the nongovernmental sectors that have been responsible for most of the social and economic gains, and, as noted by Elizabeth Knup of the Ford Foundation, for playing a major role in “framing and shaping the contours of the Sino-US relationship.”¹²

Even as relations have spiraled downwards, NGOs have remained critical channels for cross-Pacific engagement. Thanks to years of cooperation and trust among international colleagues, while political friction has taken its toll on exchanges, robust collaborative infrastructure remains relatively intact. And NGOs remain vital to making progress in areas of mutual interest, such as climate change and pandemic prevention. But continued progress in each area will depend to a great extent on how freely NGOs are able to cooperate across borders.

Key Obstacles to NGO Cooperation

In recent years, the operating environment for NGOs has become increasingly constrained. Chinese and American government actions have made cooperation more challenging, and security pressures have increased risk aversion for participants on both sides. While in some cases the government actions are justified—such as cracking down on industrial espionage, restricting sensitive technology exports, and pushing back on human rights abuses—in many cases the incremental decrease in risk is dwarfed by the dramatic loss of benefits.

Obstacles in China

The Chinese government is impeding cooperation by tightening restrictions on foreign and domestic NGOs, raising the prospect of arbitrary detention, and engaging in cyberattacks and industrial espionage against U.S. organizations.

The Foreign NGO Law

The “Foreign NGO Law,”¹³ as it is known colloquially, has tightened restrictions on the activities of all non-Chinese NGOs in China, thereby limiting collaboration across the board. These restrictions apply not only to NGOs with a permanent presence in China but also to overseas NGOs seeking to conduct programs, projects, and other “temporary activities”¹⁴ in China. There are several aspects of the law in particular that inhibit NGO activities and should be addressed in order to stimulate greater cooperation.

¹² Ibid., p. 2.

¹³ “Law of the People’s Republic of China on the Administration of Activities of Overseas Non-Governmental Organizations within the Territory of China,” The National People’s Congress Standing Committee, last modified April 28, 2016.

¹⁴ Temporary activities generally refer to one-off activities not run through one’s own registered Chinese office, though the legal specifics are more complicated.

First, the lead authority shifted from the Ministry of Civil Affairs to the Ministry of Public Security, signifying the primacy of security concerns over cooperative benefits. It has, in essence, announced to all actors that NGOs are first and foremost a security threat—“hostile anti-China forces”—rather than a source of positive contributions. The central role of the police, along with the wide scope of activities covered by the new law, and vague language around threats to national security or social stability, have raised concerns among foreign NGOs that anyone could be targeted for doing work deemed a threat by the CCP.

For foreign NGOs resolved to operate as a permanent legal presence in China, one of the biggest challenges is the complex and bureaucratic registration process. They must find a professional supervisory unit (PSU), a Chinese government agency willing to sponsor and approve all operations. But PSUs may be held responsible for foreign NGO “misbehavior,” so most are hesitant to expose themselves to unnecessary risk. In particular, small NGOs have had little success registering because of the complex bureaucracy and difficulty securing a PSU.¹⁵ Whether these NGOs are willing and able to comply with the burdensome and intrusive reporting and auditing requirements is another question.

The difficulty in planning and executing temporary activities has had an even greater impact on the reduction of cooperative nongovernmental programs.¹⁶ Since the law came into effect in January 2017, just over 3,000 temporary activities have been approved. It is not clear how many activities were conducted prior to the law, because no such designation existed, but anecdotal evidence suggests there were many multiples more.¹⁷ The registration process is time-consuming, complex, and requires a willing Chinese Partner Unit (CPU), such as a state organ, a public institution, or a social organization. The law requires that CPUs submit the formal application and also use their bank account to fund any activities within mainland China. The result is that Chinese partners are often unwilling to undertake the hassle of registering or, like PSUs, are risk-averse and conclude that the risks outweigh the potential benefits of cooperation. With current circumstances leaving it untenable to apply for every minor activity, foreign NGOs are left operating without permission or simply not operating in China at all. For many foreign NGOs and Chinese partners, the cost of engagement is simply too high.

¹⁵ At the time of writing, only 553 foreign NGOs had successfully established representative offices, with the majority being industry associations, chambers of commerce, and similar business-related organizations. For more details see: Jessica Batke, Shen Lu, “Visually Understanding the Data on Foreign NGO Representative Offices and Temporary Activities,” *The China Ngo Project*, February 1, 2021, <https://www.chinofile.com/ngo/analysis/visually-understanding-data-foreign-ngo-representative-offices-and-temporary-activities>

¹⁶ ChinaFile has a useful FAQ section on this process: “Temporary Activity FAQs: Filing and Beyond,” The China Ngo Project, accessed February 15, 2021, <https://www.chinofile.com/ngo/faq/temporary-activity-faqs-filing-and-beyond>.

¹⁷ “Temporary Activities Filterable Table,” The China Ngo Project, last modified February 8, 2021, <https://www.chinofile.com/ngo/latest/temporary-activities-filterable-table>.

To further complicate matters, Chinese NGOs face intense scrutiny over foreign-source funding. The additional reporting requirements and cloud of suspicion that results from accepting foreign funding serve as strong disincentives to international cooperation. This threatens to undermine the positive work they have been doing both with and independent of foreign partners.

Retaliatory Detention and Hostage Diplomacy

The threat of arbitrary detention has weighed heavily over the international NGO community ever since Michael Kovrig and Michael Spavor, two Canadians working for international NGOs in China, were detained in December 2018. The detentions are accepted by many to be retaliation for Canada's arrest, on behalf of the United States, of Meng Wanzhou, Huawei's CFO on charges of bank fraud related to U.S. sanctions on Iran. This threat escalated in October 2020 when *The Wall Street Journal* reported that the Chinese government had threatened retaliatory detention of American citizens for U.S. arrests of Chinese military-affiliated scholars.¹⁸ Even prior to COVID travel restrictions, anecdotal reports were widespread of academics, think-tank policy experts, and businesspeople refusing to travel to China because of the threat of arbitrary detention. The State Department gave further credence to that concern with the publication of an official travel advisory.¹⁹ The fear of arbitrary detention may be the single greatest hindrance to cooperation moving forward.

In a similar vein, the Chinese government and security apparatus has a history of retaliating against individuals and organizations that voice perspectives contrary to those of the government or CCP.²⁰ The goal of such retaliation—often achieved—is to quiet voices of dissent. It does so not only at great personal cost to those directly affected but also at the indirect expense of missed opportunities for cooperation and the diminution of Chinese soft power. Recent developments in Hong Kong, especially those stemming from the passage of the Hong Kong national security law,²¹ have made these fears even more widespread.

Cyberattacks and Industrial Espionage

¹⁸ Kate O'Keeffe, Aruna Viswanatha, "China Warns U.S. It May Detain Americans in Response to Prosecutions of Chinese Scholars," *The Wall Street Journal*, October 17, 2020, <https://www.wsj.com/articles/china-warns-u-s-it-may-detain-americans-in-response-to-prosecutions-of-chinese-scholars-11602960959>

¹⁹ "China Travel Advisory," U.S. Department of State, last modified December 17, 2020, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.

²⁰ "The Long Arm of China: Global Efforts To Silence Critics From Tiananmen To Today," U.S. Government Publishing Office, last modified May 24, 2016, <https://www.govinfo.gov/content/pkg/CHRG-114hhrg20804/html/CHRG-114hhrg20804.htm>.

²¹ Officially titled the Law of the People's Republic of China on Safeguarding National Security in the Hong Kong Special Administrative Region

Long a source of bilateral tension, cyberattacks and industrial espionage attributed to China further threaten to constrain the political will for cooperation and opportunity for NGO engagement. The Obama administration's 2015 Cyber Agreement represented substantial progress and, for a period thereafter, commercially focused attacks appeared to decrease.²² In recent years, however, the quantity and magnitude of China's attacks and theft of trade secrets have continued to grow.²³ This past summer, the U.S. Department of Justice indicted Chinese hackers believed to be connected with China's Ministry of State security for targeting medical research groups focused on developing a COVID-19 vaccine.²⁴ These attacks, heightened by the perception of state complicity, threaten to derail areas of critical collaboration. If state-sponsored hacking and industrial espionage continue to be waged against the United States, it becomes very difficult to build a firewall around opportunities for collaboration in global health and climate change.

Obstacles in the United States

The United States is impeding cooperation by its restrictive immigration policies, politicization of cooperation with China, and inadequate education of nongovernmental actors about security threats.

Immigration Policy

The flow of talent between the United States and China has benefited both nations, increasing knowledge, generating economic gains, and strengthening social ties. Recently, increased American visa restrictions, initiated in response to alleged threats to U.S. national security, have adversely affected the ability of Chinese citizens to enter and stay in the United States, reducing the social and economic benefits of immigration and impeding the ability to cooperate.

Recently, the U.S. has imposed visa restrictions on Chinese graduate students in sensitive technology sectors with national security applications and on researchers with military ties. It has also reduced visas for state-controlled media outlets, tightened restrictions on members of the Communist Party and those affiliated with the United Front Work Department (UFWD), and sanctioned some officials named as responsible for policy

²² While the results of the 2015 agreement were mixed, it did result in a significant drop in the number of attacks of the type covered under the agreement. See Herb Lin, "What the National Counterintelligence and Security Center Really Said About Chinese Economic Espionage," *Lawfare Blog*, July 31, 2018, <https://www.lawfareblog.com/what-national-counterintelligence-and-security-center-really-said-about-chinese-economic-espionage>

²³ "Information About The Department of Justice's China Initiative and A Compilation of China-Related Prosecutions Since 2018," The United States Department of Justice, last modified February 11, 2021, <https://www.justice.gov/opa/information-about-department-justice-s-china-initiative-and-compilation-china-related>.

²⁴ Christopher Bing, Marisa Taylor, "Exclusive: China-backed hackers 'targeted COVID-19 vaccine firm Moderna,'" *Reuters*, July 31, 2020, <https://www.reuters.com/article/us-health-coronavirus-moderna-cyber-excl/exclusive-china-backed-hackers-targeted-covid-19-vaccine-firm-moderna-idUSKCN24V38M>

measures related to crackdowns in Xinjiang and Hong Kong. To a certain extent, these measures seem prudent. However, these restrictions also negatively affect scholars beyond these parameters, including critical STEM researchers, by barring their entry or encouraging their emigration because of fears of undue scrutiny by federal law enforcement. It has also negatively influenced American soft power, with many Chinese students no longer viewing the United States as a safe country in which to pursue their education.

Prudent visa policy is necessary to protect against legitimate economic and national security threats, including against intellectual property theft and economic espionage. The challenge, however, is to mitigate risks while still allowing exchanges that are in American interests. A completely risk-free immigration policy is not possible and should not be pursued as our primary means of security enforcement.

At the same time, Chinese visa policies are certainly not free from blame. Chinese restrictions on visas for foreign journalists and critics of Chinese policies are especially troublesome and noteworthy.²⁵

Politicization of Cooperation

The politicization of engagement with China is also problematic. A number of outspoken American politicians and pundits have vilified efforts at cross-Pacific cooperation, framing cooperation with China as anathema to love of country. The Trump administration amplified this rhetoric through its simplistic attempts to push back on all aspects of the China relationship rather than take a more nuanced approach. This has made it difficult for all types of organizations, from private companies to academic research centers to nonprofit organizations, to work with China in good faith without facing domestic criticism.

The U.S. Department of Justice's "China Initiative" has taken some meaningful steps to protect Americans against malicious cyber activities, espionage, and theft of trade secrets. But the framing of this initiative has also led to the racial profiling of Chinese-Americans and Chinese citizens, particularly among students and those in research and technology fields. The politicization of COVID-19, including the Trump administration's labeling of COVID-19 as the "China virus," has only heightened these tensions, with xenophobic attitudes affecting not only Chinese-Americans but Asian-Americans more broadly. To be clear, there are very real threats that are effectively addressed under these Department of Justice policies, but the U.S. government should be able to advance American security without resorting to xenophobic attitudes and stoking racial tensions. We should also note that China, too, has politicized cooperation by its state-controlled media's steady drumbeat of "Western anti-China forces" seeking to undermine the CCP. This narrative, along with

²⁵ Bethany Allen-Ebrahimian, "The debate over U.S. restrictions on Chinese journalists," *Axios*, March 4, 2020, <https://wwwaxios.com/us-china-journalism-reciprocity-54fb7b-9608-4566-8982-e8cad2cc0c0.html>.

attempts to shift blame for COVID-19 onto the United States, sows distrust and exacerbates anti-China rhetoric in the U.S.²⁶

Inadequate Preparation for the Risks of Cooperation

Cooperating with China invariably involves working with China's political system. This may include members of the CCP, "influence organizations" such as those affiliated with the UFWD, and even organizations like think tanks or universities, which, unlike their American counterparts, are mostly state-affiliated.²⁷ A recent report identified 600 organizations in the United States linked to the UFWD, spread throughout the business community, educational institutions, and media.²⁸ Organizations seeking to shape favorable perceptions of China through covert or coercive means have been the source of concern for members of the U.S. government and security apparatus for years, but insufficient effort has been made to educate Americans engaging with China, both at home and abroad, about these hazards. Well-intentioned and unsuspecting players become susceptible to security risks if they are not educated about the Chinese political and security system and the potential risks of blind engagement.

In recent years, the departments of justice, education, and defense all have put pressure on nongovernmental actors to cease interactions with CCP-affiliated organizations and to increase transparency about foreign funding. Universities, research organizations, nonprofits, and private companies are now scrambling to take protective measures to reduce the risk of these interactions, but a better job of education and attention to security is still required. Without adequate training, China's influence operations pose a genuine threat not only to American organizations and national security but also to the broader prospects and will for U.S.-China cooperation.

At the same time, shuttering all cooperation with Chinese organizations that are affiliated with the CCP or UFWD is short-sighted and detrimental to American interests. The U.S. government should focus on educating Americans for secure, effective engagement rather than discouraging or banning interactions altogether. The Chinese government should also

²⁶ For example, see Gerry Shih, "Conspiracy theorists blame U.S. for coronavirus. China is happy to encourage them," *The Washington Post*, March 5, 2020, https://www.washingtonpost.com/world/asia_pacific/conspiracy-theorists-blame-the-us-for-coronavirus-china-is-happy-to-encourage-them/2020/03/05/508754,58-5dc8-11ea-ac50-18701e14e06d_story.html. For an excellent analysis of the politicization of COVID-19, see Yanzhong Huang, "How the Origins of COVID-19 Became Politicized," Think Global Health, August 14, 2020, <https://www.thinkglobalhealth.org/article/how-origins-covid-19-became-politicized>.

²⁷ Yanzhong Huang, "China's Think-Tank Great Leap Forward," *Council on Foreign Relations*, September 28, 2015, <https://www.cfr.org/blog/chinas-think-tank-great-leap-forward>.

²⁸ Didi Kirsten Tatlow, "Exclusive: 600 U.S. Groups Linked to Chinese Communist Party Influence Effort with Ambition Beyond Election," *Newsweek Magazine*, October 26, 2020, <https://www.newsweek.com/2020/11/13/exclusive-600-us-groups-linked-chinese-communist-party-influence-effort-ambition-beyond-1541624.html>.

realize that these efforts at influence threaten the foundational openness with which American institutions operate and from which China benefits.

Recommendations

Though many obstacles complicate the U.S.-China relationship, we can—and should—create spaces for cooperation that will promote our national interests and make further progress on issues of global concern. This does not mean setting aside all our differences or betraying our values. Nor does it mean everything needs to be done together. But we can identify shared goals and maintain open channels of communication as we work to achieve our aims.

To overcome the current standstill and advance official engagement, we recommend that the U.S. and Chinese governments (1) focus cooperation on climate change and global health and (2) create a more enabling environment for nongovernmental cooperation.

1. Focus cooperation on climate change and global health.

There are obvious, early-harvest gains to be made on climate change and global health—actions that the Biden administration has already signaled it will take. President Biden, as promised, rejoined the Paris Climate Agreement and the WHO on the first day of his presidency. He has appointed John Kerry as “global climate change envoy,” and he plans to increase staffing of American public health officials in China. The Chinese government, which has already committed to the Paris Agreement, will be rolling out key policies in the upcoming 14th Five Year Plan to achieve their recent pledge to become carbon neutral by 2060.

But the broader political environment is not conducive to bold cooperative action on these issues. In order to make headway, the two governments first and foremost must take action to:

- *Build a firewall around climate change and global health as pillars of critical cooperation.* Both governments should encourage engagement in these areas, despite political pressures on the overall relationship and on other issues. By the same token, building a firewall around these issues also means not using them as bargaining chips in a larger political deal. When conflicts in other areas do arise, governments should actively reinforce messaging that prevents climate change and global health cooperation from suffering collateral damage. De-escalating the inflammatory political rhetoric on both sides is critical. Further efforts also need to be made to depoliticize the issues themselves. Both countries have strong, existential interests in addressing these global challenges. Doing so requires the United States and China to differentiate between constructive and harmful interactions so that not everything is viewed through an antagonistic, ideological lens that inhibits collaboration between nongovernmental actors. Disagreements over origins of the COVID-19 virus and government response, for instance, should not preclude joint efforts to coordinate responses to future pandemics, including disease reporting, information sharing, expert exchanges, and negotiating supply chain agreements and norms.

- *Strengthen the mechanisms of cooperation around climate change and global health.* The U.S. and China should create high-level frameworks to identify shared goals and lay out long-term visions for climate change and global health. These frameworks, possibly similar in concept to the 2008 *U.S.-China Ten-Year Framework for Cooperation on Energy and Environment*, would help define the parameters of cooperation, encourage Track II initiatives, and develop action plans that help nongovernmental organizations engage on these issues. Summit meetings between the U.S. and China *specifically focused on* climate change and global health would also send a clear signal to subnational governments, public-private partnerships, businesses, and academic institutions that cooperation in these areas is back on the agenda, even with ongoing tensions in other areas. If presidential meetings are not politically feasible or too difficult to limit to these discrete issues, then meetings at the vice-presidential and ministerial levels could be effective alternatives.²⁹
- *Protect climate change and global health efforts from malicious cyberactivities.* Progress in this area is critical to improving broader mechanisms of cooperation. If malicious cyberactivities and industrial espionage continue at their current pace, cooperation is unlikely to get off the ground. Similar in concept to the Obama-Xi 2015 Cyber Agreement³⁰, high-level emissaries should meet to designate areas of cooperation off-limits to espionage and to reinforce previous commitments. Public health and climate-related organizations should be expressly protected. This could function as a standalone agreement or be incorporated into a sector-specific framework as suggested in the bulletpoint above. Though difficult to enforce, if successful, this model could expand into other areas of cooperation to protect against industrial espionage, hacking, and other malicious cyberactivities.

2. Create a more enabling environment for nongovernmental cooperation.

Amidst governmental conflict, cooperation among nongovernmental actors remains the best channel to make progress on climate change and public health issues. In order for them to be effective, efforts need to be made to address key obstacles to engagement, including revising China's Foreign NGO Law, addressing fears of arbitrary detention, preventing the weaponization of visa policies, educating NGOs on the risks of cooperation, and countering xenophobia.

²⁹ The Gore-Chernomyrdin Commission operated at this level. For more information see Matthew Rojansky, *Indispensable Institutions: The Obama-Medvedev Commission and Five Decades of U.S.-Russia Dialogue* (Washington, D.C: Carnegie Endowment for International Peace, 2010), https://carnegieendowment.org/files/indispensable_institutions.pdf.

³⁰ While the results of the 2015 agreement were mixed, it did result in a significant drop in the number of attacks of the type covered under the agreement. See Herb Lin, "What the National Counterintelligence and Security Center Really Said About Chinese Economic Espionage," Lawfare Blog, July 31, 2018, <https://www.lawfareblog.com/what-national-counterintelligence-and-security-center-really-said-about-chinese-economic-espionage>.

- *Revise the Foreign NGO Law.* First, China's oversight authority over foreign NGOs should revert back to the Ministry of Civil Affairs from the Ministry of Public Security to reframe foreign NGOs as solution partners rather than security risks. The temporary activity-permitting process should be simplified and streamlined to reduce the barriers to cooperation. The Chinese government should create an umbrella sponsoring unit to serve as a default Chinese Partner Unit (CPU) to alleviate the difficulty of finding a partner that can navigate the registration and reporting process and that is willing to answer to the Public Security Bureau. Creating several umbrella sponsoring units in various fields of expertise would be even better. Ultimately, revision of the law should allow for direct registration of NGOs, treating them on equal terms with commercial businesses and eliminating the need for PSUs altogether.
- *Eliminate the threat of arbitrary detention.* The detention of the two Canadian NGO workers has had a chilling effect on nongovernmental cooperation and business investment. This impact will be felt for some time, but the critical first step toward its reversal is for the Chinese government to release Michael Spavor and Michael Kovrig. Governments must clearly distinguish between the affairs of governments and private citizens and deal with each of them through appropriate channels. National security laws should not be used as sweeping, catch-all policies for politically motivated detentions; these laws should be retained for matters that truly impact national security.
- *Stop weaponizing visa policy.* The increased scrutiny the U.S. government has placed on Chinese student visas has been excessive. While students and scholars from some military institutions should be prevented from studying certain technical fields, these cases are the exception and do not warrant recent blanket policies. The reduction of five-year F-1 visas to a single year with limitations on optional practical training is likely to have deleterious effects on Chinese students coming to U.S. universities. Furthermore, visa restrictions based on political affiliation, such as the recent restrictions on Chinese Communist Party members, are anathema to American values and have little practical effect beyond creating enmity and reducing American soft power. With a view to reciprocity, the Biden administration should roll back some of these recent restrictions, while China should cease to weaponize its own visa restrictions towards journalists and scholars. The Chinese government should also allow American scholars and researchers to benefit from longer visa terms.³¹ In this regard, both sides should reaffirm their commitments to 10-year visas.
- *Empower NGOs to resist inappropriate foreign influence.* The U.S. government needs to better educate U.S. citizens and NGOs on the risks of cooperation with Chinese counterparts, along with mitigation strategies to resist inappropriate foreign influence. Organizations and individuals need to review their oversight and governance practices, with attention to activity reporting, funding transparency, and federal funding guidelines. The federal government should provide a clearinghouse of risks and mitigation strategies, or fund a

³¹ Scholars and experts from American think tanks and similar research organizations are often not given ten-year multiple-entry visas, but rather limited to single-entry one-month visas.

nonprofit third-party to do so, to help NGOs understand best practices and due diligence. This public resource should also provide background information on Chinese affiliations and state institutions, and advise on managing Chinese requests for engagement. Ultimately, it should strike a balance between being constructive and vigilant and should prioritize public education over enforcement.

- *Denounce xenophobia and racism.* The U.S. government must make every effort to protect the rights of the Chinese-American community as well as Chinese citizens living or studying in the United States. As President Biden addresses broader racial tensions, he should state unequivocally that discrimination against Chinese-Americans, Asian-Americans, and Chinese citizens is unacceptable. Chinese scientists and scholars, in particular, have been the targets of unfair suspicions of espionage based solely on their ethnicity. These individuals and communities have sustained substantial collateral damage as a result of increased tensions with China, in part due to the Trump administration's policy of indiscriminate pushback on all things China, its scapegoating of China for a wide variety of economic and social ills in the U.S., and its labeling of COVID-19 as the "China virus." President Biden should highlight the positive contributions Chinese-Americans, Asian-Americans, and Chinese citizens make every day to the nation and to their communities.

Conclusion

U.S.-China engagement must continue. Addressing climate change and preventing future pandemics are in each country's national interest and will help avoid spillover effects that would have catastrophic global consequences. While the current political impasse and legitimate areas of contention portend serious challenges in the relationship for years to come, the United States and China need to learn to manage their differences while making positive progress on issues of collective security and global importance.

While governments play critical roles in tackling these issues, it is important to remember that the key drivers of positive change in the relationship are our people. The United States and China must unleash the cooperative and problem-solving power of our businesspeople, scientists, students, artists, and other members of civil society.

To be sure, there are risks to engagement. Both countries must endeavor to strike the difficult balance between protecting national security and facilitating cooperation. But in the areas of climate change and pandemic prevention, the benefits of engagement far outweigh the risks. The U.S. and Chinese governments must rise to the occasion to take up the mantle of global leadership and work once again together—for America, for China, and for the world.

Evaluating and Improving U.S.-China Dialogues for Governmental and Nongovernmental Actors

By **Daniel Jasper**

Delivering remarks to the U.S.-China Business Council in December 2020, China Foreign Minister Wang Yi offered five suggestions to reset U.S.-China relations for the Biden administration. Among these recommendations, Wang proposed that the U.S. and China foster “correct strategic understanding” and strengthen communication and dialogue.^{32, 33} Wang’s proposition to strengthen communication and dialogue may be a particularly tough sell to many in Washington who point to the current low point in relations after decades of dialogue as evidence that these exchanges aren’t producing the outcomes the relationship needs. Many cite Beijing’s promised commitments to market reforms that have yet to materialize to show that these dialogues have yielded little substantive change. Furthermore, the notion that dialogue has produced scant results has also supported claims that the U.S. should decouple from China, or that decoupling has accelerated *because of* unproductive dialogue. As a result, enthusiasm for dialogue waned considerably in Washington during the presidential administration of Donald Trump.

Joint statements, records, speeches, commitments, and goal announcements between the U.S. and China, however, paint a more complete picture of what bilateral dialogues have been able to achieve. Over recent decades, quantitative and qualitative evidence indicates that dialogues have produced significant contributions to global health, security, environmental management, and many other fields. The question then becomes: Why is dialogue treated as a failure by Washington? The metrics of success for these exchanges are, at least in part, responsible for some fundamental and persistent misunderstandings. Often, dialogue is judged as a whole and with broad statements about its ability to advance unilateral foreign policy ideals rather than how well they achieve jointly agreed-upon objectives. Commentary and assessments of these exchanges, then, urgently need more standardized and objective methods of evaluation.

As the U.S. and China approach a new juncture in the bilateral relationship, it’s imperative that the two countries accurately assess the contributions of bilateral dialogue as a foreign policy tool. To do so will require clarifying what is meant by “dialogue” and examining the past commitments and results of these exchanges. Given the importance of the U.S.-China

³² See MenaFN, “China, US will work together to resume dialogue: Wang Yi,” <https://menafn.com/1101244225/China-US-will-work-together-to-resume-dialogue-Wang-Yi&source=22>

³³ Wang’s remaining three suggestions were to expand mutually beneficial cooperation, manage disputes and differences, and improve public support for better relations.

relationship for both countries and the world at large, understanding dialogue as a policy instrument is a critical matter of global security. Has dialogue truly failed to produce tangible results? What have been the goals and outcomes of dialogues in the past? What commitments were made and how did each country follow through? How are we measuring the success or failure of these exchanges? Have we calibrated our expectations appropriately? These are the types of questions we will need to address with data-driven and historically accurate answers (as opposed to prevailing perceptions and generalized geopolitical anxiety) to truly understand what the role of dialogue is in the U.S.-China relationship.

Defining ‘Dialogue’

Dialogue as a concept has become a catch-all term, often employed to refer generally to the act of talking to the other side. Consequently, dialogue is often conflated with communication, negotiations, or engagement. At other times, the word is used synonymously with diplomacy as a whole. To assess the contributions of dialogue to U.S.-China relations, conceptual precision in both theory and in practice is necessary. While the meaning of “dialogue” is at times dependent on context, the term does have a (more or less) specific meaning in international relations.

Dialogues in bilateral or multilateral settings refer to a specific type of exchange in which delegations from two or more parties meet for a series of presentations and discussions on a given topic. In practice, these exchanges follow a rough format at three different levels: government to government (Track I), civil society to civil society (Track II), or a mixture of government and nongovernmental parties (Track 1.5). A typical dialogue lasts two or three days and consists of three or four discussion periods. Each discussion period focuses on a specific subtopic of a larger theme and lasts one and a half to two hours. Delegations usually consist of about 10 to 25 participants (for a total of 20 to 50 participants), who then give presentations on their areas of expertise. Each presentation can last from just five to 15 minutes followed by a discussion period after all the presentations are complete. Most often, the agenda will also include time for more informal interactions, such as eating meals together or even sightseeing as a group.

The intention behind these conference-style exchanges is to provide a private space to clear up misunderstandings, identify opportunities for cooperation, manage long-term relations, improve conflict resolution, and build strong professional and personal relationships among the participants. These goals are much easier to achieve in closed-door settings where participants can talk openly without political pressures or the fear of being misinterpreted by the press. Ideally, participants take what they learn about the other side’s perspective and incorporate that into policymaking and analysis. Dialogues can also serve as useful precursors or complements to negotiations by providing a space to explain system differences, outline constraints, and explore potential outcomes to proposed or ongoing negotiations.

In summary, the term “dialogue” denotes an extended meeting between counterparts; it is not the same as communication, engagement, negotiations, or diplomacy. It is a specific diplomatic tool — perhaps best categorized as a type of international exchange — with certain applications and foreseeable limitations. This more precise understanding of the term gives perspective to what outcomes might be possible with dialogues and under what circumstances they can best be utilized.

U.S.-China Dialogues

In the case of the U.S.-China relationship, dialogues have roots in engagements extending back to the 1970s. For example, the U.S.-China Joint Economic Committee (JEC) was created by President Jimmy Carter and Deng Xiaoping in January 1979 to begin economic normalization.³⁴ In recent years, the scale of these exchanges has oscillated between extensive, including a vast array of government agencies and civil society actors, to minimal, essentially as interactions between only essential points of governmental contact, such as the military, and peripheral exchanges among civil society organizations. Topics of dialogue have expanded over the years along with China’s growing influence and have included diverse issues such as trade, global conflicts like those in Sudan and North Korea, cybersecurity, environmental protections, border controls, drug trafficking, aviation, tourism, food safety standards, humanitarian operations, and infectious diseases. To understand the scale and results of U.S.-China dialogue over the years, the following sections provide an overview of the recent history.

George W. Bush Expands Dialogues

Dialogue structures between the U.S. and China under the George W. Bush administration were refashioned to include two components: the Senior Dialogue (SD) and the Strategic Economic Dialogue (SED). At a press briefing following the first SD in 2005, then Deputy Secretary of State Robert Zoellick stated, “The purpose of the dialogue is to discuss the strategic and conceptual framework for our relations. And in doing so, to move beyond the operational day-to-day work that we — both countries — are regularly engaged in and to try to integrate across issues so that we can better understand one another’s respective interests, but also domestic considerations.”³⁵

At the outset, these dialogues were intended to provide context to everyday diplomacy by allowing the U.S. and China to clarify intentions and perspectives on global affairs. Similarly, the Treasury Department described the purpose of the SED as follows:

³⁴ “U.S.-China Joint Economic Committee.” awarchive, May 8, 1986. <http://digitalcollections.library.cmu.edu/awweb/awarchive?type=file&item=691166>.

³⁵ Robert Zoellick. U.S. Department of State. U.S. Department of State, August 5, 2005. <https://2001-2009.state.gov/s/d/former/zoellick/rem/50498.htm>.

"By prioritizing issues in the broader context of our bilateral economic relationship, the SED gives direction and creates momentum for the many existing bilateral mechanisms we use to foster cooperation and resolve concerns across the spectrum of economic issues."³⁶

While these broadly worded purpose statements did not include any easily measurable goals, the SD and SED dialogues did result in significant coordination and tangible results in U.S.-China relations, as well as in important reforms to each country's domestic policies. A small sampling of outcomes provides insight into the spectrum of early achievements. Successful outcomes included:

- Air services liberalization, which allowed for the doubling of daily passenger flights and gave "unfettered access to Chinese markets by lifting all government-set limits on the number of cargo flights and cargo carriers serving the two countries...."^{37, 38}
- Tourism promotion by agreeing to allow group Chinese tourist travel to the U.S. This agreement allowed for a more than an 80% increase in Chinese tourism to the U.S. in the years that followed.^{39, 40}
- Agreement to allow foreign banks in China to offer a range of RMB (renminbi, or currency) services and compete with Chinese banks. U.S. and other foreign banks were granted access in 2007 after the agreement.⁴¹
- Cooperation around export safety and environmental controls on a range of consumer goods such as food, pharmaceuticals, medical products, alcohol, tobacco, electrical products, pesticides, fireworks, and motor vehicles.⁴²

³⁶ U.S. Department of The Treasury – U.S.-China Strategic Economic Dialogue, March 9, 2009. <https://web.archive.org/web/20090617100850/http://www.ustreas.gov/initiatives/us-china/>.

³⁷ U.S. Department of the Treasury. U.S. Department of State. U.S. Department of State, May 23, 2007. <https://2001-2009.state.gov/p/eap/rls/fs2007/85426.htm>.

³⁸ Jiaoe Wang, Haoran Yang, and Han Wang, "The evolution of China's international aviation markets from a policy perspective on air passenger flows," *Sustainability* 11 No.13 (June 28, 2019): 3566.

³⁹ Ibid.

⁴⁰ Sarah Feldman and Felix Richter. "Infographic: Chinese-U.S. Tourism Flatlines." *Statista Infographics*, May 29, 2019. <https://www.statista.com/chart/18212/us-chinese-tourism/>.

⁴¹ "Foreign Banks Have Landed in China, but the Local Competition May Prove Tougher than Expected." *Knowledge@Wharton*, August 1, 2007. <https://knowledge.wharton.upenn.edu/article/foreign-banks-have-landed-in-china-but-the-local-competition-may-prove-tougher-than-expected/>.

⁴² "The Third U.S. – China Strategic Economic Dialogue December 12 – 13, 2007, Beijing Joint Fact Sheet," U.S. Department of the Treasury, December 12, 2007. <https://www.treasury.gov/press-center/press-releases/Pages/hp732.aspx>.

- Cooperation on scientific standard-setting such as in metrology, which facilitated trade and improved product quality.⁴³

Crucially, the SED provided an important touch point in 2007 when China was hit by economic turbulence due to its exposure to the U.S. and global subprime lending markets.⁴⁴ When the economic crisis reached global proportions in 2008, the SED provided a ready-made venue to discuss a full suite of issues amid the “global economic and financial stress.”⁴⁵ At these dialogues, both countries charted the course for complementary economic policies and agreed to stimulus packages that helped strengthen recovery efforts worldwide.⁴⁶

Obama Expands Dialogues

Under President Barack Obama, the U.S.-China dialogue structure was redefined as the Strategic and Economic Dialogue (S&ED). The new framework separated into two tracks: a strategic track (which encompassed an array of security issues, including military-to-military relations, international conflicts, environmental management, and transportation) and an economic track (which encompassed the full spectrum of trade and commerce issues). The frameworks served as an umbrella to a wide network of subdialogues, institutional partnerships, and coordination at the local governmental level. At the S&ED’s inception, the Treasury Department issued a fact sheet that described the goal of the forum as follows:

“Both President Obama and President Hu Jintao of China have placed the S&ED at the center of our bilateral relationship and are committed to delivering concrete, meaningful and sustained progress over time on long-term strategic and economic objectives through the S&ED.”⁴⁷

⁴³ “U.S. Fact Sheet: Fifth Cabinet-Level Meeting of the U.S.-China Strategic Economic Dialogue,” U.S. Department of the Treasury, December 8, 2008. <https://www.treasury.gov/press-center/press-releases/Pages/hp1316.aspx>.

⁴⁴ “The Third U.S. – China Strategic Economic Dialogue December 12 – 13, 2007, Beijing Joint Fact Sheet,” U.S. Department of the Treasury, December 12, 2007. <https://www.treasury.gov/press-center/press-releases/Pages/hp732.aspx>.

⁴⁵ “U.S. Fact Sheet: Fifth Cabinet-Level Meeting of the U.S.-China Strategic Economic Dialogue,” U.S. Department of the Treasury, December 8, 2008. <https://www.treasury.gov/press-center/press-releases/Pages/hp1316.aspx>.

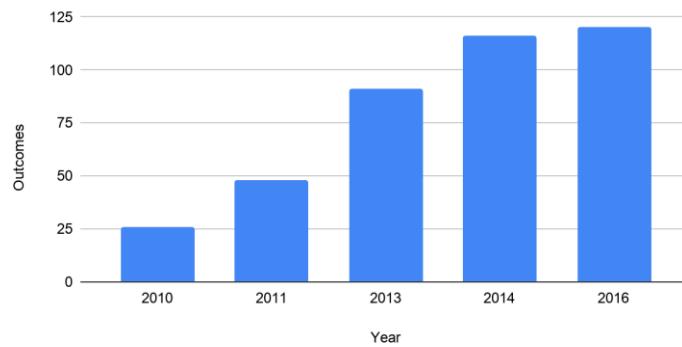
⁴⁶ “Second Meeting of the U.S. –China Strategic & Economic Dialogue Joint U.S.-China Economic Track Fact Sheet,” U.S. Department of the Treasury, May 27, 2010. <https://www.treasury.gov/press-center/press-releases/Pages/tg722.aspx>.

⁴⁷ “FACT SHEET: U.S.-China Strategic and Economic Dialogue.” U.S. Department of the Treasury, n.d. <https://www.treasury.gov/initiatives/Documents/SEDfactsheet09.pdf>.

Like the structure preceding it, the S&ED's stated goals were open-ended and, consequently, difficult to measure. Nonetheless, available quantitative data does show that the S&ED saw increased progress on foreign policy objectives and outcomes along both tracks. As depicted in Figure 1, for instance, reported outcomes from the strategic track rose from just 26 in 2010 to 120 by the end of the dialogues in 2016.⁴⁸ While these outcomes do not necessarily equate to "concrete, meaningful" progress, the notable increase does reflect growing space for institutional cooperation and/or an increase in the number of issues addressed on a bilateral basis.

While many of the results from the S&ED are difficult to measure in terms of their on-the-ground impact, a large portion of the outcomes were substantive contributions to global security and economic growth. It's worth briefly exploring a sample of the dialogues' successful products to gain a clearer understanding of what these mechanisms can accomplish.

Figure 1: S&ED Reported Outcomes (Strategic Track) 2010 - 2016



Sample of Successful Strategic Track Outcomes	Sample of Successful Economic Track Outcomes
Customs and border security cooperation, which improved supply-chain security, facilitated trade, and helped counter transborder crime. ⁴⁹	Coordination on domestic economic growth strategies — the U.S. supported domestic growth centered on higher investment and national saving, including reductions in the federal budget deficit (during the Obama years) and investments in education and labor force training. China, for its part, focused on boosting domestic consumption

⁴⁸ U.S. State Department readouts did not provide a numbered list of outcomes in 2012 and 2015 as in other years and instead provided a narrative of the outcomes. The U.S. Treasury Department issued narratives of the economic track outcomes every year.

⁴⁹ "U.S.-China Strategic and Economic Dialogue 2011 Outcomes of the Strategic Track." U.S. Department of State, May 10, 2011. <https://2009-2017.state.gov/r/pa/prs/ps/2011/05/162967.htm>.

	and implemented measures to increase household income. ^{50, 51, 52}
Environmental and climate change cooperation in areas such as power management, energy efficiency, carbon capture, reforestation, water quality, wildlife trafficking, hydrofluorocarbons, low carbon transformation, wind energy, electric cars, fuel efficiency, biofuels, fisheries, green ports and vessels, marine litter, and emerging technologies. ⁵³	Renminbi (RMB) exchange rate reforms, resulting in a more market-oriented exchange rate for China's currency. These reforms, while slow moving, followed on commitments first made under the SED during the Bush years. ^{54, 55}
Established a hotline between special representatives of the presidents and a satellite collision avoidance hotline. ^{56, 57}	Coordination around combating illegally made, counterfeit, and substandard pharmaceuticals and medicines. China committed to revise its Drug Administration Law — the revision process (which allowed for comments from the

⁵⁰ "U.S.-China Joint Fact Sheet Sixth Meeting of the Strategic and Economic Dialogue." U.S. Embassy & Consulates in China, July 11, 2014. <https://china.usembassy-china.org.cn/u-s-china-joint-fact-sheet-sixth-meeting-strategic-economic-dialogue/>.

⁵¹ Global Business Policy Council (GBPC). "Read @Kearney: The Rise of China's Middle-Class Consumer." Kearney, n.d. <https://www.jp.kearney.com/web/global-business-policy-council/article/?%2Fa%2Fthe-rise-of-china-s-middle-class-consumer-article>.

⁵² Brian Riedi, "Coronavirus Budget Projections," *Manhattan Institute*, April 29, 2020, <https://www.manhattan-institute.org/coronavirus-cbo-budget-deficit-projection>.

⁵³ "U.S. Strategic and Economic Dialogue 2010-2016, Outcomes of the Strategic Track," Department of State.

⁵⁴ "2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track," Department of the Treasury, June 25, 2015, <https://www.treasury.gov/press-center/press-releases/Pages/jl0092.aspx>.

⁵⁵ Takamoto Suzuki, "The Renminbi Exchange Rate Reform and Its Implications for Asian Markets," *China Quarterly of International Strategic Studies*, no. 4 (2016): 485-506, <https://doi.org/10.1142/S2377740016500317>.

⁵⁶ "U.S.-China Strategic and Economic Dialogue Outcomes of the Strategic Track," U.S. Department of State, 2013, <https://2009-2017.state.gov/r/pa/prs/ps/2013/07/211861.htm>.

⁵⁷ "U.S.-China Strategic and Economic Dialogue Outcomes of the Strategic Track," *U.S. Embassy and Consulates in China*, July 14, 2014, <https://china.usembassy-china.org.cn/u-s-china-strategic-economic-dialogue-outcomes-strategic-track/>.

	U.S. during the drafting stages) was completed in 2019. ⁵⁸ ⁵⁹
Cooperated on public health and combating infectious diseases such as H7N9, Ebola, influenza, multi-drug-resistant tuberculosis, malaria, and AIDS. ⁶⁰	Promoting transparency in the policymaking process, including the U.S. budget setting process and Chinese improvements in its management of normative documents. ^{61, 62}
Conducted emergency management and humanitarian exercises such as search and rescue operations and Community Emergency Response Team (CERT) training. ^{63, 64}	Allowing foreign participation in Chinese capital markets such as gaining access for foreign financial institutions to set up joint venture security companies and removing ownership limits on securities. ^{65, 66}
Partnered on civil nuclear affairs such as the successful conversion of nuclear reactors from highly enriched uranium fuel to low-enriched uranium, making the sites less vulnerable to terrorism or proliferation efforts. ^{67, 68}	Price liberalization in Chinese markets for electricity, petroleum, natural gas, transport, post and

⁵⁸ “2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track,” U.S. Department of State.

⁵⁹ “China: Drug Administration Law Revised,” Library of Congress, October 31, 2019, <https://www.loc.gov/law/foreign-news/article/china-drug-administration-law-revised/>.

⁶⁰ “U.S.-China Strategic and Economic Dialogue Outcomes of the Strategic Track,” U.S. Department of State.

⁶¹ “2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track,” U.S. Department of State.

⁶² “China’s Top Legislature to Review Documents Online,” China Daily, February 25, 2019, <http://www.chinadaily.com.cn/a/201902/25/WS5c73845aa3106c65c34eb401.html>.

⁶³ “U.S.-China Strategic and Economic Dialogue Outcomes of the Strategic Track,” U.S. Department of State.

⁶⁴ “2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track,” U.S. Department of State.

⁶⁵ “2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track,” Department of the Treasury.

⁶⁶ He Xiyue, Sang Tong, Zhou Erjie, “China Lifts Foreign Ownership Limits on Security, Fund Management Firms,” *Xinhua News*, April 1, 2020, http://www.xinhuanet.com/english/2020-04/01/c_138938273.htm.

⁶⁷ “2015 U.S.-China Strategic and Economic Dialogue Joint U.S.-China Fact Sheet –Economic Track,” U.S. Department of State.

⁶⁸ Miles Pomper, Ferenc Dalnoki-Veress, “The Little Known Success Story of U.S.-China Nuclear Security Cooperation,” *Nuclear Threat Initiative*, June 10, 2020, <https://www.nti.org/analysis/articles/little-known-success-story-us-china-nuclear-security-cooperation/>.

	telecommunications, and municipal public utilities sectors. ^{69, 70}
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Trump and the Collapse of Dialogue

Initially, the S&ED was refashioned under the Trump administration into the all-encompassing Comprehensive Dialogue (CD), which was separated into four pillars: 1) the Diplomatic and Security Dialogue, 2) the Comprehensive Economic Dialogue, 3) the Law Enforcement and Cybersecurity Dialogue, and 4) the Social and Cultural Issues Dialogue.⁷¹ However, the framework largely fell apart as a result of the increased frictions from the trade war and decreased interest in traditional modes of diplomacy under the Trump administration. By the end of 2020, only a few channels remained open for issues such as trade and military-to-military contacts. Halting the dialogue process set back many of the gains that had been achieved over the prior decade, contributed to an overall decline in the relationship, allowed irritants to go unaddressed, and has made cooperation more difficult to restart.

Far from being a way for China to string along the U.S. while making no real concessions, as some have argued, the above review of successes indicates that the exchanges brought about some important improvements in security and the global economy. In some cases, the dialogues gave high-level direction to existing institutional cooperation and helped agencies “stay ahead of the game” by providing a space to collaborate on emerging issues. For example, outcomes of the S&ED during the Obama years began providing senior-level input on cooperation between U.S. and Chinese law enforcement agencies at least four years before the rise of the opioid crisis.^{72, 73} Similarly, the bilateral dialogues helped create space for health experts from each country to begin cooperating on infectious diseases 16

⁶⁹ “2016 U.S.-China Strategic and Economic Dialogue U.S. Fact Sheet – Economic Track,” U.S. Department of State, June 7, 2016, <https://www.treasury.gov/press-center/press-releases/Pages/jl0485.aspx>.

⁷⁰ “ANALYSIS: China’s Latest Energy Liberalization Policy Set to Break Oil and Gas Monopolies | S&P Global Platts,” June 6, 2019, <https://www.spglobal.com/platts/en/market-insights/latest-news/natural-gas/060619-analysis-chinas-latest-energy-liberalization-policy-set-to-break-oil-and-gas-monopolies>

⁷¹ “Statement from the Press Secretary on the United States-China Visit,” The White House, April 7, 2017, <https://www.whitehouse.gov/briefings-statements/statement-press-secretary-united-states-china-visit/>.

⁷² “China, U.S. Attach Importance to First Strategic and Economic Dialogue,” Consulate General of The People’s Republic of China in Chicago, July 28, 2009, <http://www.chinaconsulatrchicago.org/eng/ywzn/sw/t575630.htm>.

⁷³ “2018 3 Wave Lines Mortality.Png,” National Vital Statistics System Mortality File, March 2018, <https://www.cdc.gov/drugoverdose/images/epidemic/2018-3-Wave-Lines-Mortality.png>.

years before the COVID-19 pandemic.⁷⁴ These gains in global health cooperation were later rolled back by the Trump administration before and during the pandemic, slowing the initial response to the virus and demonstrating the dangers inherent in a decoupling strategy.⁷⁵

The Role of Track IIs and Civil Society

Since the opening of relations between the U.S. and China with the famous “ping pong diplomacy” of the 1970s, the space for civil society exchanges has expanded greatly. These early exchanges helped set the stage for the now ubiquitous Track II dialogues (exchanges between civil society and other nongovernmental parties), which have served a critical role in mediation, trust building, and “back channel” communication. Crucially, Track II dialogues have also served as important telegraphing instruments during moments of crisis, when Track I channels are usually stretched thin or closed off.

For instance, in the midst of the 2008 financial crisis, the U.S. Chamber of Commerce and the China Center for International Economic Exchanges formulated plans to launch the U.S.-China CEO dialogue. The dialogue was launched in 2011 and has since provided a unique space for business leaders to discuss topics of concern at important junctures in the economic relationship. For instance, the dialogue allowed the business community to come together as Xi Jinping’s new government prepared to meet with the Obama administration for the first time in 2013, as well as during critical trade negotiations during the Trump administration. Relatedly, former U.S. Secretary of Commerce Carlos Gutierrez has stated, “As an important window for both China and the U.S., the Track Two economic and trade dialogue mechanism has ushered in a new chapter in bilateral ties, and has also deepened my understanding of China.”⁷⁶

Track II dialogues have made important contributions in myriad other issue areas as well, such as health, human rights, development, peacekeeping, environmental management, and security. Like Track I talks, the results tend to accumulate over long periods of time. In a review of the lessons learned from civil society dialogues in the nuclear security realm, the Institute for Defense Analysis (IDA) stressed the need to view Track 1.5 and Track II dialogues as long-term investments in security. Their conclusions are worth quoting at length.

⁷⁴ “China, U.S. Start 1st Strategic Economic Dialogue,” Embassy of the People’s Republic of China in the United States of America, December 14, 2006, <http://us.chineseembassy.org/eng/zmgx/1/t283593.htm>.

⁷⁵ Marisa Taylor, “Exclusive: U.S. Slashed CDC Staff inside China Prior to Coronavirus Outbreak,” The Reuters, March 25, 2020, <https://www.reuters.com/article/us-health-coronavirus-china-cdc-exclusiv/exclusive-u-s-slashed-cdc-staff-inside-china-prior-to-coronavirus-outbreak-idUSKBN21C3N5>

⁷⁶ Jiao Liu, “China-US Track Two Diplomacy Injecting Huge Positive Energy,” China Daily, November 7, 2018, <https://www.chinadaily.com.cn/a/201811/07/WS5be2b56aa310eff303287359.html>.

"While the value of United States-Chinese Track 1.5/2 discussions on security issues develop only with time and engagement, they are constructive endeavors that should be championed and continued with increased attention. Track 1.5/2 meetings with the Chinese serve many purposes, one of which is to refine understanding over time of China's nuclear forces and ambitions. They also produce common lexicons, allow each side to explain its anxieties about the other's positions and behavior, identify and attempt to mitigate misperceptions, keep talks going on sensitive subjects in unofficial channels when they are frozen at the official level, provide a venue to float trial balloons and seek ways to build confidence, and provide useful experience for future generations of analysts and officials.

They also may foster relations (and perhaps even a degree of trust) among participants who return to Track 1.5/2 meetings, although maintaining long-term and continuing professional relations with one's foreign counterparts while remaining compliant with counterintelligence and export control rules and regulations can be difficult for participants on both sides."⁷⁷

These conclusions highlight the value of Track II dialogue broadly and call attention to the limitations of civil society engagement on sensitive issues. On the other hand, these exchanges can also be useful for sensitive subjects as nongovernmental participants may be less constrained in their talking points than governmental officials. IDA's analysis above is verified by the detailed documentation of these dialogues provided by the Naval Postgraduate School. In its 2016 narrative accompanying the Track 1.5 and Track II dialogues on nuclear issues, the authors noted that the Chinese participants became more willing than in prior years to discuss issues such as strategic stability (as traditionally understood by Western experts).⁷⁸ This change in understanding by the Chinese side was reported after eight previously documented dialogues — highlighting the need to evaluate results on a long-term, historical basis.

The outcomes of these dialogues, while substantial, are much more difficult to evaluate than their Track I counterparts. Firstly, the vast number and great variety of actors and institutions participating in U.S.-China Track IIs make comprehensive evaluations nearly impossible. Secondly, measuring results can be difficult as Track II dialogues tend to lack goal or purpose statements, instead opting for descriptions of the events or thematic foci. Thirdly, even in well-documented Track II sessions, results of dialogue can be difficult to ascertain: How is one to know that a concept was developed initially and exclusively at one particular dialogue? How can civil society actors prove that the concepts developed were successfully incorporated into policy? At times, civil society actors may be caught between the desire to document outcomes (especially for donors) and the need to maintain confidentiality with policymakers. Rarely are successful transfers between Track II and

⁷⁷ Michael O. Wheeler, "Track 1.5/2 Security Dialogues with China: Nuclear Lessons Learned." (Fort Belvoir, VA: Defense Technical Information Center, September 2014), <https://doi.org/10.21236/ADA622481>.

⁷⁸ Christopher Twomey et al., "U.S.-China Strategic Dialogue, Phase IX Report," December 2016, <https://calhoun.nps.edu/handle/10945/51930>.

Track I dialogues acknowledged by officials, and civil society actors may want to cede credit for their proposals in favor of policy or political progress.

Despite these challenges in evaluating Track II dialogues, both sides have, at one point or another, acknowledged the important role civil society actors play. Given the increasing complexity of the U.S.-China relationship and its rising political difficulties, Track II dialogues will continue to be an important channel for experts to improve communication, develop concrete policy proposals, and gain more nuanced pictures of one another. Ideally, these benefits are not only transferred to policymakers but also to the public as Track II participants incorporate their learnings into public communications, which can have an immense bearing on media narratives and public perceptions.

Criticism of U.S.-China Dialogues

Understanding the major criticisms of dialogue is also necessary to improve how the tool is employed in the relationship and how to overcome consistent challenges. Perhaps most crucially, addressing these issues will also help policymakers and dialogue participants set expectations appropriately for these exchanges.

Lack of Follow-Through

Critics rightly point out that many commitments made during dialogues were not upheld. Many point to China's continued lack of intellectual property protections as a prime example of the limitations of these exchanges. At least as far back as 2007, China committed to protecting IP rights and did follow through on a number of key reforms, including the establishment of specialized IP courts and revisions to domestic law. However, 1 in 5 North American corporations reported IP theft in 2019, and, according to a CNBC Global CFO Council survey, seven out of 23 companies reported IP theft in the past decade.⁷⁹ Others have pointed out that the piecemeal reforms are not enough to address the issue, as IP protections would require "a complete structural overhaul" of Beijing's legal system.⁸⁰

Other commitments have achieved considerable follow-through, only to later be seen as problematic, ineffectual, or surface-level adjustments with little practical impact. For example, the two sides agreed to a pilot auditing program in 2013.⁸¹ The program was

⁷⁹ Eric Rosenbaum, "1 in 5 Corporations Say China Has Stolen Their IP within the Last Year: CNBC CFO Survey," CNBC, March 1, 2019, <https://www.cnbc.com/2019/02/28/1-in-5-companies-say-china-stole-their-ip-within-the-last-year-cnbc.html>.

⁸⁰ Daniel Rechtschaffen, "How China's Legal System Enables Intellectual Property Theft," The Diplomat, November 11, 2020, <https://thediplomat.com/2020/11/how-chinas-legal-system-enables-intellectual-property-theft/>.

⁸¹ "Joint U.S.-China Economic Track Fact Sheet of the Fifth Meeting of the U.S.-China Strategic and Economic Dialogue," U.S. Department of The Treasury, July 12, 2013, <https://www.treasury.gov/press-center/press-releases/Pages/jl2010.aspx>.

heralded as a big step forward in cooperation as it allowed U.S. watchdogs to obtain documents in enforcement cases against Chinese auditors. The watchdog organization (the Public Company Accounting Oversight Board), however, often complained about China's failure to grant requests; China often cited national security laws as prohibiting access to books and records.⁸² As a result, the Trump administration threatened to scrap the deal in 2020, while China countered with a proposal for a new arrangement with U.S. regulators.⁸³,⁸⁴ The program shows how mercurial these commitments can be and how long it can take to truly ascertain the success and durability of any agreement.

Structural mismatches

The vast differences between the U.S. and Chinese governing systems also present an enormous obstacle to successful dialogue. On one hand, commitments made by U.S. administrations that were later overturned by subsequent administrations show the difficulty in dealing with democratic states. Since at least 2007, for example, the U.S. and China made repeated commitments to oppose "trade and investment protectionism."⁸⁵ These prior commitments were not upheld by the Trump administration, which launched a trade war with China and cut many existing channels of dialogue.

On the other hand, China's top-down system of governance presents difficulties with implementing many of the reforms U.S. lawmakers and constituents would like to see (as in the case of IP reforms mentioned above). The hierarchical structure stands in contrast to the bottom-up approach of the U.S. governance model, where working-level officials flesh out policies, which are then brought to more senior officials for refinement and decision-making. Traditionally, Chinese leaders provide broad directives to lower levels of government, meaning that Chinese working-level officials (who may be awaiting direction from the higher levels) are not in the same position as their U.S. counterparts (who are seeking substance to present to their superiors) in many of these dialogues.

Empty promises

⁸² Jay Clayton, Wes Bricker, and William D. Duhnke III, "Statement on the Vital Role of Audit Quality and Regulatory Access to Audit and Other Information Internationally—Discussion of Current Information Access Challenges with Respect to U.S.-Listed Companies with Significant Operations in China," U.S. Securities and Exchange Commission, December 7, 2018, <https://www.sec.gov/news/public-statement/statement-vital-role-audit-quality-and-regulatory-access-audit-and-other>.

⁸³ "Imminent": Washington Set to Ditch US-China Auditing Deal," Aljazeera, July 14, 2020, <https://www.aljazeera.com/economy/2020/7/14/imminent-washington-set-to-ditch-us-china-auditing-deal>.

⁸⁴ Aaron Nicodemus, "China Proposes Joint Audit to End Dispute with U.S. Regulators," Compliance Week, August 28, 2020, <https://www.complianceweek.com/accounting-and-auditing/china-proposes-joint-audit-to-end-dispute-with-us-regulators/29379.article>

⁸⁵ "The Third U.S. – China Strategic Economic Dialogue December 12 – 13, 2007, Beijing Joint Fact Sheet," U.S. Department of The Treasury, December 13, 2007, <https://www.treasury.gov/press-center/press-releases/Pages/hp732.aspx>.

Broader criticisms have been leveled against dialogue as well. Some argue that the engagements (especially during the Obama years) did not yield the results the relationship truly needed (or that American foreign policy ideals demanded); thus, these critics argued that China was gaining legitimacy from the talks and could make low-cost commitments with no intention of enforcing them. Some took the argument further, accusing China of stringing U.S. lawmakers along while advancing its own interests domestically and internationally. However, as we saw in the above review of outcomes, these exchanges provided important spaces to improve understanding and advance significant cooperation.

Recommendations for Future U.S.-China Dialogues

Setting Goals and Measuring Progress

To find stability in the bilateral relationship, both sides will need to employ a variety of diplomatic tools, including dialogue. However, it is imperative that dialogue be understood for what it is: a policy intervention; it is not a “gift to the enemy” but a necessary, low-cost, productive yet limited mode of maintaining peace and security. Dialogue, as we have seen, does have concrete or even quantifiable results; it is a diplomatic instrument that can be evaluated by examining reported outcomes with real-world developments. As with any policy intervention, proper assessment requires that dialogues have clear, measurable goals from the beginning and enough historical data to evaluate results. Therefore, future assessments about what dialogue has or has not been able to achieve should include evidence and data to support the claim so that policymakers can adjust where necessary.

Designing and including measurable goals for dialogues should not be an overly constrictive or unnecessarily exacting process. Dialogues, after all, should be a way to explore new territory in the relationship, and the exchanges should not suffer from arbitrary pressure (internal or external) to demonstrate quantitative progress. At the same time, participants can hold themselves accountable with an outline of cooperation and a general sense of how to direct the exchanges. Below are some primary examples of points to include in purpose or goal statements to help make evaluation easier.

- How often the dialogues are intended to happen.
- How many participants are intended to be included.
- The estimated timeline for any outputs or outcomes.
- Intended changes in the scale of cooperation or conflict in the relationship as a result of the dialogue.

For example, a goal statement could include aims to “increase traditional security cooperation,” “increase environmental cooperation,” or “decrease incidents of conflict.” The specificity of each goal will likely correspond to the level of dialogue and may necessarily become more specific at working levels.

Given that the effects of dialogues can take many years to fully manifest and the developments may go through periods of rapid progress, inaction, and even regression,

assessments should be mainly understood as a momentary snapshot of a dialogue's results and not necessarily a final evaluation. Dialogues can only be assessed after an appropriate period of time has passed in order to identify whether any necessary knowledge transfers, policy changes, and shifts in practice have truly taken place. The true outcomes of a dialogue or series of dialogues may not be visible for a year, a decade, or even longer in some cases. As such, only in recent years has enough data become available to truly begin evaluating the performance of U.S.-China Track I dialogues. The long-term nature of these instruments means that they must be evaluated on a historical (or longitudinal) basis, and, going forward, it remains essential that dialogues be framed as a long-term investment in security.

As we sharpen our understanding of the role of dialogue, it will be necessary to use a more standardized and exacting vocabulary as well. While this report does not seek to put forward a definitive lexicon for future dialogue, it is necessary to draw attention to a critical distinction in two developments that follow the conclusion of a dialogue. The first development after a dialogue is any commitments, agreements, or direction-setting statements that immediately follow an exchange; for illustrative purposes, we'll call these "outputs." The second development after a dialogue is the implementation of those outputs in the form of changes in policy and practice; we'll dub these "outcomes." This distinction is not only integral to evaluations of dialogue, but it also prevents a "fudging of the numbers" as it requires analysts to appropriately qualify their commentary on the results of these exchanges and help set expectations accordingly.

Tempering Expectations

Setting expectations is another challenge and requires considerable attention during the drafting of goal statements and descriptions of the dialogues. As stated above, goals should be clear, even if broad, and should be repeated as often as possible in public communications in order to set appropriate benchmarks by which policymakers and independent experts can evaluate the events over the long term. At the same time, the purpose of dialogue — a singular diplomatic tool — should be distinguished from unilateral foreign policy objectives in the same way that the purpose of a hammer (to drive a nail) is distinct from the goal of the foreman (to construct a building).

Independent experts and the media, for their part, have a responsibility to strive for accuracy in their depiction of these exchanges. For example, prior to the Trump administration, dialogues had often been characterized with words like "sprawling," giving the impression that these exchanges were unwieldy and disorganized. Yet, while the multitude of institutional partnerships involved may have functioned to varying ways, these dialogues appear to have been well-coordinated, generating important and long-lasting cooperative efforts in areas as diverse as global health, nuclear security, drug trafficking, and environmental management. The widespread nature of these dialogues, then, does not necessarily indicate dishevelment, lack of coordination, or some irrational

sprint toward embrace. The number of issues the U.S. and China must face is too large to be confined to a limited number of channels. Therefore, at least, moderately sized dialogue structures should be expected and welcomed as they are more likely to produce substantive outcomes.

Norm Setting and Long-term Investments in Dialogue

Dialogues have proved effective spaces for parties to manage relationships, avoid miscalculation and misperception, manage crises, send and receive signals, and discover areas of meaningful cooperation throughout the world. In the case of the U.S.-China relationship, however, dialogues carry an extra layer of significance and serve as important norm-setting events. Given the importance of and inherent tensions in the bilateral relationship, U.S.-China dialogues set important examples for world leaders by demonstrating that disputes can and should be resolved through diplomatic means. These dialogues also send an important signal to the world that both countries are committed to peaceful management of the relationship and global affairs. While some have criticized high-level dialogues as performative, with each side repeating the same talking points, it raises the question of why each side feels the need to repeat themselves and whether or not these points are truly being heard and effectively incorporated in decision-making processes. In other words, repetition does not necessarily indicate that dialogue is ineffective; it may indicate a larger challenge in understanding (which is not the same as endorsing) the other party's worldview and "strategic and moral universe."⁸⁶ These exchanges, then, should be understood as valuable information-gathering, signal-sending, and norm-setting events with long-term payoffs — even when the immediate outputs feel thin.

Diversity and Inclusion

Another essential dimension of dialogues is the issue of who is at the table. The need to ensure gender and minority representation in these settings, and in wider diplomatic engagements, is paramount to the success of individual dialogues as well as the larger state of relations between the U.S. and China. A steadily growing body of literature in recent decades has demonstrated that higher degrees of gender equality in a given society reduce the likelihood of conflict both domestically and



⁸⁶ This concept is expounded further in Lyn Boyd-Judson's book *Strategic Moral Diplomacy: Understanding the Enemy's Moral Universe*.

internationally.⁸⁷ Research has also shown that when women are a part of peace processes, the peace agreements are more likely to remain in place and provisions are more likely to be implemented.⁸⁸ One study found that the inclusion of civil society and women's groups made a peace agreement 64% less likely to fail.⁸⁹ Investigations into the correlation between women's participation and peace agreements have also highlighted that women often have access to populations and settings that men do not; making their input invaluable in security settings.⁹⁰ While the U.S. and China are not in a peace process, dialogues are a means of peacebuilding and ensuring a stable relationship. There is no reason to expect that the inclusion of women and minorities in these dialogues would not have the same sorts of impacts as in formal peace negotiations.

Coordinating Among Stakeholders

Intragovernmental Coordination

The sheer volume of issues that must be addressed between the U.S. and China means that there are many institutional stakeholders who must be a part of (or, at minimum, be kept abreast of) the dialogue process. Many executive departments, agencies, bureaus, and offices have their own idiosyncratic worldview and approach the bilateral relationship differently. At times, these views can be conflictual and even undermine one another by sending contradictory messages or actively stymying cooperation in other spheres. For instance, in one of the most thoroughly documented series of Track 1.5 dialogues between the U.S. and China, the U.S. Naval Postgraduate School recounted in its 2016 report that:

“internal U.S. political divisions were seen to inhibit cooperation and complicate relations. The State Department was viewed by Chinese interlocutors as obstructionist on military-to-military relations. USPACOM’s and 7th Fleet’s perceptions of China were viewed as divergent and in conflict with the White House’s and OSD’s views. The delegation also noted that Congress cancelled a visit by a U.S. aircraft carrier to China.”⁹¹

⁸⁷ Mary Caprioli, “Gender Equality and State Aggression: The Impact of Domestic Gender Equality on State First Use of Force,” *International Interactions* 29, no. 3 (October 18, 2010): 195–214, <https://doi.org/10.1080/03050620304595>.

⁸⁸ Jana Krause, Werner Krause, and Piia Bränfors, “Women’s Participation in Peace Negotiations and the Durability of Peace,” *International Interactions* 44, no. 6 (October 8, 2018): 985–1016, <https://doi.org/10.1080/03050629.2018.1492386>.

⁸⁹ Desirée Nilsson, “Anchoring the Peace: Civil Society Actors in Peace Accords and Durable Peace,” *International Interactions* 38, no. 2 (April 10, 2012): 243–66, <https://doi.org/10.1080/03050629.2012.659139>.

⁹⁰ Louise Olsson et al., “Operational Effectiveness and UN Resolution 1325 – Practices and Lessons from Afghanistan,” Swedish Defence Research Agency, May 2009, 152.

⁹¹ Twomey et al., “U.S.-China Strategic Dialogue, Phase IX Report.”

Interagency coordination, then, is critical to the success of dialogue. Additionally, “triangulating” the results of these conversations by intentionally working to maintain regular contact between the administration, Congress, civil society, the business community, and the media could help ensure stakeholder buy-in for outputs and help ensure each actor is working toward or, at least, not obstructing important outcomes between other actors.

Civil Society

Civil society organizations play a uniquely critical role in dialogues as they offer a back channel where messages can be sent with a degree of separation — allowing actors to save face, shield themselves from potential political backlash, or test ideas with independent experts. In the case of the U.S.-China relationship, civil society organizations have played a historically critical role as they were instrumental in opening the diplomatic relationship. For example, the American Friends Service Committee, Bulletin of the Atomic Scientists, Chicago Council on Foreign Relations, Northwestern University, and the University of Chicago began initial dialogues on mainland China as early as 1966. These and similar efforts informed U.S. congressional attitudes, legislation, and executive policies early in the detente.⁹² These Track II dialogues have also proved effective at filling in gaps from Track I conversations, managing expectations, and serving as “transfer mechanisms,” by which ideas are generated in a nongovernmental setting and carried over to official policy via professional networks or public communications.⁹³

The U.S.-China bilateral relationship can ill afford to lose the vast network of experienced professionals involved in Track II dialogues and, thus, officials must make every effort to ensure these exchanges are not obstructed by travel restrictions, unwelcoming or hostile remarks, or other official policies that inhibit people-to-people engagement. Further, officials should strive to harvest the outcomes of these dialogues in an objective manner and carefully guard against confirmation biases.

Third-party States and Actors

As U.S.-China relations continue to involve an increasing variety of issues, there is a corresponding increase in the number of third-party stakeholders who are affected by the bilateral relationship. In regions such as Southeast Asia, Africa, the Middle East, and even Latin America, American and Chinese influence is beginning to overlap or have already overlapped for some time. These third-party regional actors have much at stake in the U.S.-China bilateral relationship and can sometimes be caught in the middle, often forced to “choose a side” when considering development or investment models. These actors cannot

⁹² Jacqueline Bruzio, “Historical Survey of AFSC Efforts in China, 1917-2005” (Harvarford College Libraries, n.d.).

⁹³ Esra Cuhadar and Thania Paffenholz, “Transfer 2.0: Applying the Concept of Transfer from Track-Two Workshops to Inclusive Peace Negotiations,” *International Studies Review* 22, no. 3 (September 2020): 651–70, <https://doi.org/10.1093/isr/viz031>.

be viewed as mere proxies by which each country can advance its system or worldview; they must be considered independent agents and necessary voices at dialogues to ensure a well-rounded perspective of outputs and outcomes. Like the inclusion of women and minorities discussed above, including third-party stakeholders, such as representatives of the relevant third-party government bodies and civil society, will build more robust and peaceful cooperative arrangements.

Recommendations for Track II Dialogues

While many of the above recommendations apply to all tracks of dialogue, it's necessary to highlight recommendations specific to Track IIs.

Evaluating Results

Track II dialogues are notoriously difficult to link to specific policy or practice outcomes, as noted above. While this is unlikely to change given that civil society actors must maintain confidentiality and are not often given attribution from public officials, Track II dialogues can help demonstrate outcomes more effectively by: 1) articulating clear purpose or goal statements; 2) providing, when possible, public and detailed readouts of the events, making sure to highlight any notable progressions in thinking or attitudes; and 3) seeking to evaluate, on a historical basis, outcomes that could be reasonably attributed to or correlated with developments at the dialogue.

Repository for Track II Documentation

Creating a repository for Track II documentation could prove to be a useful exercise for evaluating the long-term contributions of these dialogues. This repository could be maintained and housed by a coalition of civil society organizations from both countries. Collecting the various narratives, press statements, and other reports in one place would have several important benefits. First, it would provide fertile ground for officials and experts to review earlier progress, identify previous challenges, and guide new, non-dogmatic approaches to Track II dialogue. Such a clearinghouse would also help Track II participants ensure the discussion continues to move forward by examining progress across sectors and even borrowing on progress made at other venues. Lastly, these archives could be an invaluable source of data for academics and social scientists examining citizen diplomacy efforts.

Connecting Track II Actors

Like difficulties in interagency coordination among offices with distinct worldviews and objectives, Track II dialogues also have an extensive network of civil society actors operating with a wide range of agendas. Typically, Track II participants connect via their professional networks. Many experts circulate among the different dialogues, at times serving as coordinator or co-host and, at other times, serving as invited speakers. While these connections are highly effective, they tend to be issue-specific and/or clustered among politically aligned experts. Currently, there is no singular space for Track II

participants of one side to regularly gather and share insights from their dialogues. For example, there is not a conference-style annual meeting for American participants of Track II dialogues. Such a symposium could help cross-pollinate ideas among issue areas and experts.

Improving Transfer Mechanisms

Track II participants aspire to move the results of their dialogues to Track I settings. Doing so, however, can prove difficult and the results can be tricky to assess. Providing routinized mechanisms by which officials are given readouts from the dialogues could help ensure officials receive critical messages or signals. Consequently, Track II coordinators may want to establish relationships with relevant government officials and provide them with routine briefings from their dialogues. Ideally, these readouts would be given both in writing and verbally. For example, if a civil society organization hosts an annual dialogue on humanitarian cooperation, the organization could let relevant officials at the State Department, U.S. Agency for International Development, and Department of Defense know they will provide a brief memo recapping the event each year and will follow up with in-person or over-the-phone debriefs when possible. In this way, officials and relevant policymakers can come to expect regular input from civil society actors.

Conclusion

In 2009, at the outset of the S&ED, then Secretary of State Hillary Clinton and Secretary of the Treasury Timothy Geithner co-wrote an opinion piece in The Wall Street Journal. They stated, “Simply put, few global problems can be solved by the U.S. or China alone. And few can be solved without the U.S. and China together.”⁹⁴ That statement has only grown more true in the decade that followed, and it underscores the notion that the U.S. and China will need to cooperate on a host of issues — not just the convenient or urgent topics. Dialogue has been and will continue to be an indispensable tool to explore all aspects of the relationship.

The U.S., China, and the world are still reaping some of the rewards of past dialogues, and, despite a decrease in enthusiasm for these exchanges and an increase in tension, temporary developments in the relationship should not be confused with final outcomes. Moreover, when the term “dialogue” is differentiated from engagement, negotiations, or diplomacy, we’re also able to gain a fuller appreciation for what has been accomplished by these often fast-paced, conference-style exchanges. There should be no doubt that these events have made significant contributions to security and that the entire world benefits from continued dialogue between the U.S. and China. Therefore, all levels of dialogue including governmental and nongovernmental participants must begin to focus on how to

⁹⁴ Hillary Clinton and Timothy Geithner, “A New Strategic and Economic Dialogue with China,” Wall Street Journal, July 27, 2009, sec. Opinion, <https://www.wsj.com/articles/SB10001424052970204886304574308753825396372>.

improve these policy tools by setting clearer goals, following through on agreed-upon framework structures, and managing expectations appropriately.

How Nongovernmental Actors Can Improve Crisis Management in U.S.-China Relations

By **Rachel Esplin Odell**

There are certain issues in the U.S.-China relationship where the two countries have fundamental differences and where permanent or complete resolution of those differences is unlikely in the short term. These issues include questions related to domestic political regime type, the status and military defense of Taiwan, and U.S. and Chinese military activities in the waters and airspace near China. There may be some room for dialogue on these matters, and long-term trends could create openings for deeper progress on some of these issues. However, in the short term, bilateral government-to-government dialogue on these issues is either off the table or is unlikely to persuade either side to change its underlying, divergent preferences. The United States and China must find ways to manage such areas of the relationship to prevent them from triggering conflict between the two nations, and without fundamentally compromising each nation's other underlying vital interests and perspectives.

Accepting Coexistence Despite Fundamental Political Disagreements

Perhaps at the most basic level, this requires both governments to accept the premise of coexistence — that despite fundamental disagreements over how countries should structure their political regimes and treat their citizens, neither the United States nor China will seek to overthrow the other's government through military force or covert action. This does not mean either country will not strongly disagree with actions taken by the other toward its people and seek to influence those actions through persuasion, bargaining, and pressure.

In particular, the United States, despite all its own inconsistencies and shortcomings in the realm of human rights, has a commitment to liberal conceptions of human rights. It is thus unrealistic to expect that it will ignore human rights abuses in China. However, the U.S. government should not go so far as to convert its efforts to persuade or pressure China to implement domestic reforms related to political or human rights into broader efforts to undermine China's domestic political regime.

Conversely, it is reasonable to expect that the Chinese government will seek to influence Americans to favor positions that serve China's interests, including through traditional, transparent journalism and social media engagement. However, Beijing should not seek to emulate the tactics used by the Russian government in recent U.S. elections to interfere with democratic processes in the United States through hacking election systems or deliberately seeking to deepen divides and favor certain candidates over others through deceptive social media manipulation.

Improving Management of Potential Military and Security Crises

In the military and security realm, the United States and China have an urgent shared interest in preventing bilateral crises from emerging, managing emergent crises so they do not escalate into broader war, and resolving crises that do emerge so the damage caused by the crises, bilaterally and globally, can be contained and minimized. This shared interest is rooted in the fact that both nations desire to avoid war with one another, in recognition of the dire consequences that could result from military conflict between two major powers with nuclear weapons. Deliberate conflict between the two sides is not inconceivable, especially over Taiwan. However, for the most part the United States and China desire to avoid direct military conflict. They especially want to prevent crises from inadvertently escalating into conflict.

Better crisis management cannot in and of itself prevent conflict or war if either country is intent on engaging in conflict. Nor can crisis management resolve underlying disagreements about fundamental issues that could lead to conflict between the United States and China. There is thus a more primary need for restrained foreign policy decision-making in both countries and for broader strategic dialogue to explore ways the two sides can mutually accommodate one another's interests.⁹⁵ Nonetheless, crisis management mechanisms can help prevent crises from inadvertently escalating to war through dynamics related to sunk costs, lost face, and misperceived signals.

Official U.S.-China Crisis Management Mechanisms

The U.S. and Chinese governments have made some progress in recent years toward establishing stronger crisis communication channels, which are key to effective communication during military crises. The Taiwan Straits Crisis in 1995-96 and the EP-3 incident in 2001, when a Chinese fighter jet collided with a U.S. spy plane near Hainan Island in the South China Sea, prompted both sides to start exploring ways to improve communication during crises. Two important mechanisms for military-to-military dialogue were established during the Clinton administration, including the Defense Consultative Talks (DCT) in 1996-97 and the Military Maritime Consultative Agreement (MMCA) in 1997-98 (discussed in greater detail below).⁹⁶ A presidential hotline between the United States and China was also established in 1998. Discussions convened as part of the Defense Consultative Talks resulted in the establishment of a Defense Telephone Link in 2008

⁹⁵ See previous section for a discussion of how the United States and China can improve prospects for such dialogue.

⁹⁶ In ensuing years, the DCT have been conducted at a senior level, either between the U.S. secretary of defense and Chinese minister of defense (who, under the Chinese system, is also a vice chairman of the Central Military Commission and an active-duty flag officer) or between the U.S. undersecretary of defense and a Chinese deputy chief of general staff. The MMCA has been more centered on links between operational officers, including high-level meetings between leaders of the (Indo-)Pacific Command on the U.S. side and leaders of the PLA General Staff on the Chinese side, as well as more working-level meetings between officers on both sides. Shirley A. Kan, "U.S.-China Military Contacts: Issues for Congress," Congressional Research Service, RL32496, Oct. 27, 2014, <https://fas.org/sgp/crs/natsec/RL32496.pdf>.

during the waning years of the Bush administration.⁹⁷ The DCT and MMCA mechanisms were also supplemented with the Defense Policy Coordination Talks (DPCT) established by the Bush administration in 2006.⁹⁸

Ongoing military-to-military negotiations during the Obama administration eventually resulted in an agreement on Notification of Major Military Activities in 2014, wherein the United States and China agreed to notify each other when conducting major military exercises in the Asia-Pacific, issuing major military reports, and enacting major shifts in defense policies. This agreement also contained an annex that expressed a goal to increase mutual observation of military exercises and activities in order to “foster mutual trust and transparency in military affairs.”⁹⁹ The following year, the two sides negotiated another annex to this agreement that paved the way for more efficient and timely communication via the Defense Telephone Link during crises.¹⁰⁰ This agreement sought to address concerns that existing military-to-military links would be too unwieldy for use in a fast-moving, emergent crisis situation.¹⁰¹

Early in the Trump administration, the U.S. Joint Chiefs of Staff and the People’s Liberation Army’s Joint Staff Department agreed upon a joint staff dialogue mechanism to facilitate high-level communication between three-star officers in each side’s military in order to reduce the risk of miscalculation in crises.¹⁰² While this agreement established an important channel for direct communication between senior military leaders, some observers expressed skepticism that it would actually facilitate urgent communications

⁹⁷ Agreement on the Establishment of a Secure Defense Telephone Link between the Department of Defense of the United States of America and the Ministry of National Defense of the People’s Republic of China, signed at Shanghai Feb. 29, 2008, Entered into force Feb. 29, 2008, <https://www.state.gov/wp-content/uploads/2019/02/08-229-China-Telecommunication-Link.EnglishOCR.pdf>.

⁹⁸ The DPCT have been led by the deputy assistant secretary of defense on the U.S. side and the director of the PLA’s Foreign Affairs Office on the Chinese side. Kan, *Ibid.*

⁹⁹ Memorandum of Understanding between the United States of America Department of Defense and the People’s Republic of China Ministry of National Defense on Notification of Major Military Activities Confidence-Building Measures Mechanism, signed at Beijing Oct. 31, 2014 and at Washington Nov. 4, 2014, https://archive.defense.gov/pubs/141112_MemorandumOfUnderstandingOnNotification.pdf.

¹⁰⁰ “Annex III: Military Crisis Notification Mechanism for Use of the Defense Telephone Link,” the Department of Defense of the United States of America and the Ministry of National Defense of the People’s Republic of China, September 2015, https://china.usc.edu/sites/default/files/article/attachments/US-CHINA_CRISIS_COMMUNICATIONS_ANNECX_SEP_2015.pdf.

¹⁰¹ Also in 2014, the two sides reached an agreement on safety in maritime and air operations, which will be discussed in greater detail below in the section on maritime crisis management.

¹⁰² Jim Garamone, “U.S., Chinese Military Leaders Sign Agreement to Increase Communication,” DoD News, Defense Media Activity, Joint Chiefs of Staff, Aug. 15, 2017, <https://www.jcs.mil/Media/News/News-Display/Article/1278963/us-chinese-military-leaders-sign-agreement-to-increase-communication/>.

during a crisis, as opposed to planned formal dialogue.¹⁰³ Partly in response to these concerns, the U.S. Department of Defense and Chinese Ministry of National Defense met to discuss crisis communication in October 2020. This meeting helped to kickstart deeper bilateral discussions about how the two sides can follow better crisis management principles and ensure the appropriate communication channels remain open during a potential future crisis. However, soon thereafter, planned meetings under the MMCA failed to materialize due to disagreements between the two sides about the proposed agenda for the meetings.¹⁰⁴

Resumption of U.S.-China discussions under the MMCA and other existing military-to-military mechanisms, coupled with continued progress toward new understandings about crisis communication, are essential for the two countries to improve their crisis management capabilities. The two sides should also use these mechanisms as venues to commence negotiations over agreements for crisis management in the space, cyber, and nuclear domains, in addition to the air and maritime domains where initial agreements have already been reached (and which will be discussed further below).¹⁰⁵

In addition, these military-to-military mechanisms should be combined with revitalized official dialogue between civilian officials in the United States and China about how the two sides could implement official crisis management mechanisms. Some of these mechanisms might entail internal improvements to crisis management processes within each nation's bureaucracies and decision-making structures. Some should consist of strengthened bilateral communication channels and processes.

The Role of Nongovernmental Actors in Military and Security Crises

In keeping with the broader purpose of this report, however, this analysis will focus on the role that nongovernmental entities can play in promoting more effective crisis management. Civil society actors — which include businesses, universities, research institutes, media outlets, think tanks, labor unions, trade associations, advocacy organizations, religious institutions, and other nongovernmental organizations — can play an important role in crises, for better or worse. Many civil society actors in both the United States and China have an interest in the avoidance and wise management of bilateral crises between their respective countries. Disruptive crises and military conflict between the two nations would likely choke off much of the commercial and interpersonal exchange that is

¹⁰³ Steven Stashwick, "New U.S.-China Military Agreement Won't Be Defusing Any Crises," China-U.S. Focus, Sept. 11, 2017, <https://www.chinausfocus.com/peace-security/why-the-china-us-mil-to-mil-framework-is-and-isnt>.

¹⁰⁴ Laura Zhou, "Chinese, US militaries blame each other for PLA 'no-show' at virtual meeting," South China Morning Post, Dec. 17, 2020, <https://www.scmp.com/news/china/military/article/3114389/chinese-us-militaries-blame-each-other-pla-no-show-virtual>.

¹⁰⁵ Rush Doshi, "Improving Risk Reduction and Crisis Management in US-China Relations," in Ryan Hass, Ryan McElveen, and Robert D. Williams, eds., *The Future of US Policy toward China: Recommendations for the Biden Administration* (John L. Thornton China Center at Brookings and Yale Law School Paul Tsai China Center, November 2020), https://www.brookings.edu/wp-content/uploads/2020/11/FP_20201210_us_china_monograph.pdf, pp. 69-71.

crucial to their ability to pursue their organizational objectives of generating profits, promoting innovation, or sharing ideas. These interests can motivate civil society actors to play a constructive role in preventing crises, facilitating bilateral communication during crises, and providing options for crisis de-escalation.

On the other hand, nongovernmental actors can also play a spoiler role, triggering crises through their actions. At times, this may occur inadvertently as these actors pursue their narrow interests in ways that affect the core interests of the other government, potentially provoking strong reactions. One such example includes fishing vessels or offshore oil companies conducting resource extraction in disputed waters in the South China Sea or East China Sea. At other times, some civil society actors may even intentionally engage in behavior that they know is likely to provoke crises or even conflict if they believe that such developments will promote their interests or objectives. For example, some nationalist organizations in Japan, Taiwan, and China have periodically endeavored to stage landings and plant their national flags on the disputed Senkaku/Diaoyu Islands in the East China Sea, seeking, in part, to force their own government to take a more assertive stand in those disputes.

The degree of influence that civil society actors will be able to exert in a crisis for good or ill will be directly related to their degree of power in their countries. Such power is in turn a function of those actors' relationships to decisionmakers in government and their influence in broader society. Accordingly, civil society actors may have more influence in a democratic society such as the United States, where there are fewer restrictions on the free expression and functioning of nongovernmental organizations, than in a country like China, where the government more tightly controls and monitors civil society. Nonetheless, there is the potential for actors outside of government to play a role in crisis management in both the United States and China, though the ways they do so will differ in each country.

The following analysis first draws upon past research in crisis management to define different types and stages of international crises and discuss the role that nongovernmental actors can play in the different stages of a crisis. The next section explores how consensus principles of effective crisis management apply to civil society actors. It suggests ways that nongovernmental entities can contribute to more effective crisis management and de-escalation — both through exercising restraint during crises and through facilitating crisis communication. The final section analyzes existing mechanisms for managing maritime security crises, and then provides recommendations for how civil society can help lay the foundation for future agreements that can prevent such crises from emerging in the first place.

Concepts and Principles in Foreign Policy Crisis Management

An extensive academic literature on foreign policy crises has developed useful consensus on certain definitions and principles over time. This section first reviews how crisis management experts have conceptualized the different types of international crises. It then distinguishes the different types of interventions that can help to prevent crises from triggering broader conflict at different stages of a crisis arc, ranging from crisis prevention to crisis management to crisis de-escalation. Finally, it briefly previews the role that nongovernmental actors can play in the different stages of a crisis.

Conceptualizing Foreign Policy Crises

A standard definition developed by Jonathan Wilkenfeld and Michael Brecher for the international relations field stipulates that a foreign policy crisis has three characteristics: “(1) a threat to one or more basic values, (2) an awareness of finite time for response to the value threat, and (3) a heightened probability of involvement in military hostilities.”¹⁰⁶ All three of these features are necessary for a “full-fledged crisis” to exist, whereas a “near crisis” may exist when decision-makers perceive a threat to their country’s basic values and a finite window of time for a response but do not perceive a risk of military hostilities emerging from the situation.

Furthermore, one side might perceive the existence of a crisis, but others involved might not. Similarly, one side may perceive a situation to be a full-fledged crisis, while the other side perceives it to be only a near crisis — in other words, the two sides may not share the same perception that a crisis might escalate to military conflict. This mismatched scenario can be particularly destabilizing, as it often results in miscalculation and miscommunication between the two sides. Such dynamics arise because one side is more inclined to take risks that might provoke military action by the other due to a lack of awareness about the other’s willingness to escalate to the use of force.

Beyond full-fledged and near crises, scholars who study international crises have also identified another category of crisis: the “gray zone crisis.”¹⁰⁷ Like a near crisis, a gray zone crisis occurs when decision-makers perceive a threat to their basic values or interests but do not perceive a risk of escalation to military hostilities. In fact, gray zone crises are called such precisely because they involve threats to values and interests that take place below the threshold of armed force. Consequently, these crises are difficult to respond to effectively without significant escalation, which could, in turn, endanger even more fundamental interests. Oftentimes, gray zone crises do not impose quite the same extent of time pressure as a full-fledged crisis or a near crisis. Another defining feature of gray zone crises that distinguishes them from near crises is that they often involve activities that make attribution to a state difficult and unclear. Such activities are often carried out by nonstate parties or proxy actors that are not clearly or officially affiliated with the national government.

Prevention, Management, De-Escalation: Interventions at Three Stages of the Crisis Arc

When considering how to prevent crises in the political-military domain from resulting in military conflict, there are three separate but interrelated stages for productive

¹⁰⁶ Jonathan Wilkenfeld, “Chapter 2: Concepts and Methods in the Study of International Crisis Management,” in Michael D. Swaine and Zhang Tuosheng, with Danielle F.S. Cohen, eds., *Managing Sino-American Crises: Case Studies and Analysis* (Washington, D.C.: Carnegie Endowment for International Peace, 2006). See also Michael Brecher and Jonathan Wilkenfeld, *A Study of Crisis* (Ann Arbor: University of Michigan Press, 2000).

¹⁰⁷ Devin Ellis, Egle Murauskaite, Ron Capps, Jonathan Wilkenfeld, and Rachel Gabriel, “Gray Zone Crises in MENA and Eastern Europe,” (College Park, Md.: START, March 2017), https://www.start.umd.edu/sites/default/files/publications/local_attachments/START_ICONS_GrayZoneMENAEasternEurope_ResearchBrief_March2017.pdf.

intervention: crisis prevention, crisis management, and crisis de-escalation. Scholars of crises typically focus on the middle of these items — crisis management. This approach involves largely setting aside concerns over the causes of the crisis and the eventual resolution of the underlying conflict that provided the backdrop for the crisis, and instead focusing on the more modest and immediate question of how to prevent a crisis that has already emerged from escalating into conflict. Crisis management focuses on how the two sides involved in the crisis can improve bilateral communication and avoid actions that will back oneself or one's opponent into a corner with few options for backing down. However, a more holistic approach to crises considers not only how to improve management of emergent crises, but also how to prevent bilateral crises from emerging in the first place, as well as how to de-escalate and end crises after they emerge.

On a most fundamental level, efforts to *prevent* political-military crises could encompass efforts to resolve underlying disagreements, deconflict clashing strategies, or accommodate conflicting interests. However, prevention efforts are often conceived more modestly, referring to efforts to regularize the operations of military and paramilitary forces to reduce the likelihood that they will have a conflictual encounter with opposing forces, thereby provoking crises. These efforts can include rules of engagement and codes of conduct. Such efforts can to some extent be undertaken unilaterally, with states seeking to improve their command-and-control procedures and enhance training for their frontline forces. However, they also often require bilateral negotiation and dialogue about shared rules that are most likely to prevent crises from emerging.

Although a crisis may be effectively managed in a way that prevents escalation to conflict, it will not necessarily come to conclusion on its own without effective crisis *de-escalation*, which lies on the other end of the crisis arc. Ending a crisis may entail more fundamental conflict resolution efforts, with states negotiating accommodations of one another's interests or agreeing to changes in the behavior that precipitated the crisis. However, crisis de-escalation does not require such far-reaching or transformational conflict resolution. On the contrary, it often depends upon both sides' agreeing to postpone final resolution of underlying disagreements in the interest of defusing the crisis in the short term. Though neither side sacrifices its interests, the two sides' interest in restoring the bilateral relationship to a more stable and secure footing leads them to find more interim approaches that can de-escalate the situation.

The Role of Civil Society in the Different Stages of a Crisis

Due in large part to the second defining feature of a foreign policy crisis — the government's perception of an urgent need to respond to a threat to its basic values — nongovernmental entities are often constrained in their ability to play a direct role in managing or de-escalating a crisis, unless they are directly involved in the crisis itself. Time pressures often limit the willingness of a government to look to outside actors for assistance and limit the ability of such actors to exert influence on crisis outcomes. In some circumstances, government officials may deliberately limit the involvement of civil society actors in the crisis in order to prevent unpredictable escalation and preserve both flexibility and control. Thus, civil society actors are usually best positioned to help prevent crises from emerging in the first place, either by avoiding activities that might trigger a crisis or by facilitating dialogue and promoting mutual accommodation that can reduce the

stressors that lead to crises. They can also explore options and provide recommendations for reforms, rules, and mechanisms that governments can use to improve their crisis management practices.

Nonetheless, nongovernmental actors can in certain circumstances also play a role in crisis management and de-escalation. Trusted individuals from outside of government can help facilitate communication during a crisis when other channels of communication are lacking — particularly between states where formal diplomatic relations are lacking or severely strained. They can also provide decision-makers with additional pathways for de-escalation by acting as channels for the exchange of compensatory benefits or concessions — such as economic deals or cooperative partnerships — that can help to mitigate embarrassment or loss of position resulting from the crisis. Civil society can also pressure government officials who are escalating or otherwise mismanaging a crisis to change course and de-escalate.

The next section will explore how civil society can assist in facilitating management and de-escalation of crises once they emerge. The final section will then analyze how civil society can help to prevent crises from emerging in the first place, with particular attention to the realm of maritime security.

Translating Crisis Management Principles for Civil Society

The academic literature on foreign policy crises has generated a number of practical principles for how states can more effectively manage crises and facilitate their de-escalation. These recommendations have traditionally focused on steps that could be taken by government actors. However, this literature also has important implications for civil society actors. This section reviews some of the key principles for effective crisis management, before then exploring how nongovernmental actors could apply those principles to support crisis management, thereby promoting their interests and those of the American and Chinese people in international peace and bilateral exchange.

Scholars who specialize in crisis management, especially as applied to U.S.-China relations, have identified eight basic principles or rules of prudence that facilitate more successful crisis management. These principles were summarized in a 2006 volume that resulted from a Track II collaboration between U.S. and Chinese think tanks and university professors that assessed case studies and principles in U.S.-China crisis management.¹⁰⁸ They are:

- Maintain direct channels of communication and send signals that are clear, specific, and detailed.
- Preserve limited objectives and limited means on behalf of such objectives; sacrifice unlimited goals.
- Preserve military flexibility and civilian control, escalate slowly, and respond symmetrically (in a “tit-for-tat” manner).

¹⁰⁸ Michael D. Swaine and Zhang Tuosheng, with Danielle F. S. Cohen, eds., *Managing Sino-American Crises: Case Studies and Analysis* (Washington, DC: Carnegie Endowment for International Peace, 2006).

- Avoid ideological or principled lock-in to positions that encourage zero-sum approaches to a crisis and limit options or bargaining room; do not confuse moral or principled positions with conflicts of interest.
- Exercise self-restraint, and do not respond to all provocative moves.
- Avoid extreme pressure, ultimatums, or threats to the adversary's core values, and preserve the adversary's option to back down in a "face-saving" manner.
- Divide large, integrated, hard-to-resolve disputes into smaller, more manageable issues, thereby building trust and facilitating trade-offs.
- Think ahead about the unintended consequences of one's actions.

Each of these principles can be adapted to develop recommendations for how nongovernmental actors can facilitate more effective crisis management. Many of the following suggestions focus on ways that civil society can collaborate or cooperate with government officials to help manage and resolve crises. Some instead highlight ways that civil society can pressure government actors that are escalating crises or managing them ineffectively to change course and adopt a more constructive approach. Some of these suggestions, especially in that latter category, are more feasible in democratic countries like the United States than in countries like China where civil society and the media are more tightly controlled or restricted by the government.

Facilitate communication and clarify signals. Civil society can help facilitate better communication during crises. Individual nongovernmental actors such as businesspeople, retired officials, or other society leaders that are trusted in both nations can directly fulfill this principle by serving as a channel of communication, especially when normal diplomatic channels are closed. Oftentimes, these nongovernmental channels are less ideal than direct government-to-government communication, as they have the potential to introduce confusion and might not be trusted as authoritative. However, they will generally be better than no communication, especially if there are ways that the individual's government can signal the authoritativeness of the back channel or confirm messages sent through the back channel with other signals such as public statements or military movements. In addition, civil society actors with deep subject matter and language expertise can also help translate signals sent by an opposing state, particularly by providing more cultural and historical context to ensure the receiving government does not misinterpret those signals.

Preserve limited objectives and sacrifice unlimited goals. Civil society actors can exercise or promote caution in ways that enable the government to maintain limited goals. When crises directly relate to the missions or objectives of nongovernmental actors, those actors may be tempted to use the crises as opportunities to promote their goals by lobbying or pressuring government officials to make expansive demands or not back down. While such an approach is understandable, nongovernmental actors should be careful not to overreach in their demands. In doing so, they may cause the crisis to escalate into conflict, which could actually undermine their objectives or negatively affect their interests in other

unpredictable ways. More proactively, civil society actors whose interests are directly affected by the crisis can signal to government officials that they are willing to accept compromise outcomes and sacrifice unlimited goals. Civil society can also pressure intransigent government officials to seek compromise and sacrifice unlimited goals in the interest of preventing conflict. They can exert this pressure through comments in public media or through direct private communication if such channels are available to them.

Maintain civilian control and respond symmetrically. Civil society actors should encourage government actors to pursue diplomatic resolution to crises and avoid pressuring the government to resort to military force. Such measures will help create space for government officials to retain civilian control of crises, which is important as military personnel are often trained to employ more offensive tactics and strategies. In addition, tit-for-tat responses — as opposed to disproportionate responses — are key to prevent rapid escalation of a crisis. Civil society actors should avoid demanding disproportionate responses and, instead, should help the government to identify symmetric responses to actions taken by the other side, advocating such approaches through the media or in direct communications with their governments. If their government is responding disproportionately in ways that are escalating the crisis, civil society actors can also speak out against such approaches.

Avoid ideological lock-in to zero-sum positions. Extreme pressure from domestic audiences often makes it much harder for policymakers to find a path toward the de-escalation of a crisis. Civil society actors, including media and public thought leaders, often play an important role in shaping public opinion before and during crises. They should thus be careful not to promote ideologically rigid framings of a crisis or an opponent that portray the opponent as a fundamental, existential threat to one's values, rights, or principles. Such portrayals can make government officials feel pressured to take zero-sum positions that prevent mutually acceptable crisis resolution, instead prolonging or escalating the crisis. More proactively, nongovernmental actors can work to counter uncompromising ideological narratives that are presented by government actors or by other civil society actors by identifying the nuances of a particular situation, explaining the perspective of the other country in the crisis, and highlighting potential negative consequences of a zero-sum stance. They can communicate these arguments in the public media or through direct channels if possible.

Exercise self-restraint and do not always respond in kind. Although symmetric responses to actions of the other side in a crisis are preferable to disproportionate reactions, and sometimes are necessary to communicate resolve in protecting one's bottom line and vital interests, it is also important that crisis actors exercise self-restraint, resisting the temptation to always engage in tit-for-tat responses. As with the third principle, then, civil society actors can help the government to identify opportunities for de-escalation and restraint, advocating such approaches through the media or in direct communications with their governments. They can also use those same channels to express opposition when

their government escalates a crisis, in an effort to pressure government officials to adopt a more restrained approach. Likewise, if nongovernmental actors ever find themselves involved as a party to a crisis — such as a gray-zone crisis — they should abide by this principle themselves, exercising restraint and avoiding the temptation to always retaliate in kind when not absolutely essential.

Avoid extreme pressure and preserve face-saving ways for the opponent to back down. It is important that nongovernmental actors avoid pressuring the government to demand that the other side fully accept blame for a crisis as a condition of de-escalation. Such demands can prevent successful management of a crisis and are better postponed for diplomatic negotiation after the immediate crisis has passed — or dropped entirely. Beyond avoiding making such demands, civil society actors can also proactively help government officials find creative ways to save face upon resolving a crisis. They can provide outside options for the government to use in offering compensatory concessions to the other side in exchange for reducing their demands, whether those are privately exchanged or publicly communicated. Public thought leaders in civil society can also help frame potential crisis outcomes in ways that highlight the benefits of de-escalation and the costs of escalation. Such framing can help to counter escalatory narratives promoted either by nationalist voices outside of government or by government actors that oppose compromise.

Divide disputes into smaller issues to facilitate trade-offs. One way to facilitate de-escalation of a crisis and provide opportunities for mutually agreeable resolution is to be creative in considering how one's interests can be served by partial or compromise solutions. Civil society actors can help brainstorm such pragmatic solutions and recommend them to government actors directly or advocate them in the media. Public thought leaders can speak of discrete aspects of the crisis as distinct issues, rather than framing all of them as inextricably interrelated. If a crisis directly involves nongovernmental actors, they can even separately work to resolve the aspects of the crisis that involve them in order to reduce the magnitude of the two sides' crisis management task.

Think ahead about unintended consequences. When government actors are in the midst of a crisis, they will often be preoccupied with short-term considerations directly related to their portfolios. They may be less inclined to consider long-term or unintended consequences of the crisis and possible crisis outcomes. Many of those unintended consequences will often directly affect civil society actors, such as businesses, researchers, universities, NGOs, and religious institutions. It is essential that civil society actors communicate their concerns about the potential adverse or unintended consequences of different crisis outcomes to government officials, whether through private channels or public media. Likewise, when nongovernmental actors are themselves actors in the crisis, they should be deliberate in thinking about the unintended consequences of actions they

might take to escalate a situation, including exposure to legal liability, as well as broader harms their actions could inflict on society by triggering military conflict.

From Crisis Management to Crisis Prevention: Applications in Maritime Security

The preceding section provided creative recommendations for how civil society actors can apply well-established principles of effective crisis management to help manage and resolve crises that have already emerged. As noted above, however, the period when civil society has the greatest potential to make transformative contributions is before a crisis starts, by generating ideas and creating incentives that prevent crises from emerging in the first place.

This section begins by reviewing existing U.S.-China mechanisms for prevention, management, and de-escalation of maritime security crises. It then provides recommendations for next steps that the U.S. and Chinese governments can take to promote better maritime crisis management. Finally, it identifies gaps in existing official mechanisms and areas where more groundwork needs to be laid before negotiations can take place at a Track I level. It will provide recommendations for how nongovernmental actors can work to lay a foundation for future U.S.-China or broader regional agreements on maritime cooperation and military activities at sea. Such agreements will provide for more fundamental progress that can go beyond existing confidence-building measures to help prevent the emergence of maritime security crises between the United States and China.

Existing U.S.-China Mechanisms for Maritime Crisis Management

Since the late 1990s, the United States and China have established some crisis management mechanisms that aim to reduce the likelihood of direct U.S.-China military conflict at sea and to facilitate urgent communication should a serious maritime crisis erupt. The U.S.-China Military Maritime Consultative Agreement (MMCA) reached in 1998 established a means for coordinating annual dialogues on maritime issues between the two countries' militaries. The MMCA was specifically established as a mechanism for discussing safety in operational matters rather than for addressing or resolving underlying political disputes. In addition, the Defense Consultative Talks and Defense Policy Coordination Talks mentioned above have also served as venues for Washington and Beijing to discuss issues related to maritime security, including the two sides' disagreements about international law and domestic regulations governing foreign military activities in exclusive economic zones (EEZ), which extend up to 200 nautical miles from a nation's coast.¹⁰⁹

In their first decade and a half, these dialogues facilitated communication but produced little in the way of concrete confidence-building measures. However, in 2014, Washington and Beijing finally reached two important bilateral agreements.¹¹⁰ One of these agreements

¹⁰⁹ Kan, *Ibid.*

¹¹⁰ Bonnie Glaser, "A Step Forward in US-China Military Ties: Two CBM Agreements," CSIS Asia Maritime Transparency Initiative, Nov. 11, 2014, <https://amti.csis.org/us-china-cbms-stability-maritime-asia/>.

was the above-mentioned agreement on Notification of Major Military Activities. In this agreement, the two sides pledged to notify each other when conducting major military exercises in the Asia-Pacific region, when issuing major military reports, and when enacting major shifts in defense policies. The other agreement focused on safety in maritime encounters and was accompanied the following year by a more detailed supplemental set of rules on air-to-air encounters.¹¹¹

This latter bilateral agreement on safety in aerial and maritime encounters built on the International Regulations for Preventing Collisions at Sea (COLREGS) and the Code for Unplanned Encounters at Sea (CUES). The COLREGS were codified in an international convention adopted by the International Maritime Organization in 1972, which both the United States and China have accepted,¹¹² while CUES is a more recent agreement signed in 2014 by 21 Pacific nations, including the United States and China, at the 14th Western Pacific Naval Symposium.¹¹³ The COLREGS establish rules for how ships must operate under various circumstances to prevent collisions at sea, with provisions concerning safe speeds, head-on approaches, overtaking other vessels, crossing paths, traveling in narrow channels and in traffic lanes, low-visibility situations, towing, pushing, pilotage, anchoring, sound and light signals, and more. Both CUES and the U.S.-China agreement on safety in aerial and maritime encounters explicitly built upon the COLREGS, reiterating its principles and supplementing them with additional guidelines in certain areas, especially with regard to facilitating clear on-site communication among ships and aircraft.

Next Steps for Governmental Negotiations on Maritime Crisis Management

These various agreements have been important steps toward preventing crises and improving each side's ability to communicate effectively during a crisis. Moving forward, it is important that American and Chinese officials practice using the various existing crisis communication channels on a regular basis so that officials on both sides become accustomed to using them. This will help to ensure that communication via those channels during a crisis is smooth and effective. Via the MMCA and DPCT, the U.S. and Chinese governments should also continue to clarify and resolve remaining differences of

¹¹¹ Memorandum of Understanding between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China Regarding the Rules of Behavior for Safety of Air and Maritime Encounters, Washington, Nov. 9, 2014, Beijing, Nov. 10, 2014, https://archive.defense.gov/pubs/141112_MemorandumOfUnderstandingRegardingRules.pdf; Supplement to the Memorandum of Understanding on the Rules of Behavior for Safety of Air and Maritime Encounters between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China, Beijing, Sept. 15, 2015, Washington, Sept. 18, 2015, https://china.usc.edu/sites/default/files/article/attachments/US-CHINA_AIR_ENCOUNTERS_ANEX_SEP_2015.pdf.

¹¹² Convention on the international regulations for preventing collisions at sea, Oct. 20, 1972, London, Registration Number 15824, <https://treaties.un.org/pages/showDetails.aspx?objid=08000002800fcf87>.

¹¹³ Code for Unplanned Encounters at Sea, April 22, 2014, Qingdao, China, <https://news.usni.org/2014/06/17/document-conduct-unplanned-encounters-sea>.

interpretation regarding certain aspects of the CUES and the bilateral agreement on safety in air and maritime encounters. In addition, the MMCA should be revitalized to facilitate more delegated and intensive engagements between American and Chinese military professionals throughout the chain of command, not only at the most senior levels.¹¹⁴

Beyond these existing agreements, the United States and China should also negotiate new agreements to facilitate improved maritime crisis management. For example, the U.S.-China agreement on safety in aerial and maritime encounters negotiated in 2014-15 only applies to the navies and air forces of the United States and China. However, vessels from the U.S. and Chinese coast guards also frequently interact in the waters of the Western Pacific. China relies on such vessels as its primary means to enforce its legal claims and conduct its fisheries enforcement patrols.¹¹⁵ Thus, the bilateral agreement on safety in aerial and maritime encounters should be supplemented with an agreement on safety in encounters between coast guard vessels. The two nations' coast guards committed to pursuing such an agreement in September 2015, but such an agreement has not yet materialized.¹¹⁶ The Biden administration should return to these negotiations and seek a path forward to an agreement as soon as possible.¹¹⁷

Finally, the U.S. and Chinese governments should expand upon their traditional focus on crisis communication mechanisms and operational rules to discuss more substantive principles that could help to prevent crises that emerge at sea (or in any other context) from emerging or escalating. This could build on the eight principles of crisis management synthesized from the U.S. crisis management literature enumerated above. These principles have already achieved a high degree of acceptance among both American and Chinese crisis management experts, including those associated with the People's Liberation Army. The dialogue on crisis communication between the U.S. Department of Defense and the Chinese Ministry of Defense initiated in October 2020 will provide an important venue for such ongoing discussions. However, it is important that such discussions also occur between the

¹¹⁴ David Griffiths, *U.S.-China Maritime Confidence Building: Paradigms, Precedents, and Prospects*, China Maritime Study No. 6 (China Maritime Studies Institute, U.S. Naval War College, Newport, Rhode Island, July 2010), <https://digital-commons.usnwc.edu/cgi/viewcontent.cgi?article=1005&context=cmsi-red-books>.

¹¹⁵ China uses Coast Guard vessels rather than PLA navy ships to conduct maritime law enforcement missions in large part precisely as a means of limiting the risk of escalation to military conflict. From a more skeptical perspective, this strategy also enables China to engage in a form of "gray-zone" coercion, bolstering its disputed claims through efforts that remain below the level of kinetic conflict. See Andrew S. Erickson and Ryan D. Martinson, eds., *China's Maritime Gray Zone Operations* (Annapolis, MD: China Maritime Studies Institute and Naval Institute Press, 2019); Jeremy A. Oliver, *China's Maritime Militias: A Gray Zone Force*, master's thesis, Naval Postgraduate School, March 2019, <https://calhoun.nps.edu/handle/10945/62279>

¹¹⁶ "Fact Sheet: President Xi Jinping's State Visit to the United States," The White House, Office of the Press Secretary, September 25, 2015, <https://obamawhitehouse.archives.gov/the-press-office/2015/09/25/fact-sheet-president-xi-jinpings-state-visit-united-states>.

¹¹⁷ Doshi, *Ibid.*; Michael D. Swaine, Jessica J. Lee, and Rachel Esplin Odell, *Toward an Inclusive & Balanced Regional Order: A New U.S. Strategy in East Asia* (Quincy Institute for Responsible Statecraft, January 2021), p. 50, <https://quincyinst.org/wp-content/uploads/2021/01/A-New-Strategy-in-East-Asia.pdf>.

U.S. Department of State and Chinese Ministry of Foreign Affairs, since these agencies are often at least partly, if not primarily, responsible for managing political-security crises that emerge at sea. This may also require the United States and/or China to improve or clarify their own internal military-civilian coordination processes for managing maritime military crises.¹¹⁸

How Civil Society Can Lay a Foundation for More Significant Progress

Civil society actors, especially scholar-practitioners at think tanks and universities, can help to facilitate some of these recommended next steps for government. For example, experts in Chinese foreign policy decision-making in both the United States and China could publish research on how Chinese military and civilian agencies coordinate management of maritime security crises. U.S. scholar-practitioners could engage in Track II dialogues with Chinese counterparts to gain insight into this question and then brief U.S. policymakers on their findings.

In addition, there are several other areas relating to maritime security where the U.S. and Chinese governments are not currently well-positioned to pursue agreements, but they could find common ground in the future. In these areas, civil society can play an important role in exploring the potential and laying the foundation for future agreements that could help prevent maritime security crises from emerging in the first place. Two examples will be highlighted here: first, arrangements for joint development of resources and joint marine conservation; and second, shared guidelines for foreign military activities in the exclusive economic zone.

Joint Development of Resources and Marine Conservation. One of the best ways to prevent crises in the South China Sea and other disputed maritime spaces is for claimants in the disputes to develop what the United Nations Convention on the Law of the Sea calls “provisional arrangements of a practical nature” that allow them to share marine resources and administrative authority. Such arrangements most commonly consist of agreements between states to engage in shared management of provisional fishery zones or joint development of oil and gas resources. These arrangements, explicitly designed without prejudice to underlying sovereignty claims or eventual maritime boundary delimitation, can help countries find a way to lower tensions and promote mutual interests in resource

¹¹⁸ There is likely a degree of asymmetry between the way the United States and China manage maritime crises stemming from their different internal crisis management processes. In the United States, the U.S. State Department will play an important role in managing such crises, working in tandem with the Department of Defense and Indo-Pacific Command, subject to the coordination of the National Security Council. In China, the Central Military Commission (CMC) retains primary responsibility for managing maritime crises. Both military vessels and aircraft operated by the People’s Liberation Army and coast guard vessels subject to the jurisdiction of the People’s Armed Police fall under the command of the CMC. Although the CMC’s crisis management is subject to the oversight of the top civilian leadership (especially Xi Jinping as the chairman of the CMC), the extent to which the CMC coordinates or partners with the Foreign Ministry in managing and responding to such crises is unclear. Moving forward, the U.S. and Chinese governments should clarify the best channels for civilian foreign affairs communication during crises and develop clear understandings about how those channels will relate to military communication channels.

extraction from the disputed waters that would otherwise remain out of reach due to the sensitivities of each side.

In a similar vein, claimant states, along with other user states that operate frequently in the region, can work together to develop shared mechanisms for regional marine conservation and marine peace parks. For example, Susan Thornton recommends that the United States, China, and ASEAN conduct a joint survey of the environmental health of the South China Sea and sponsor a joint project for plastic removal, followed by the establishment of a South China Sea environmental resource commission to facilitate joint marine conservation efforts by claimant states and user states alike.¹¹⁹ Another recommendation that has been developed and advocated by civil society actors and was, at one point, endorsed by the Taiwan government — which controls the largest island in the Spratly group in the South China Sea — is the establishment of a Spratly Islands Marine Peace Park. This park would facilitate sustainable management of the area's natural resources and "alleviate regional tensions via a freeze on claims."¹²⁰

While such arrangements would be strongly conducive to preventing maritime security crises and promoting mutually beneficial cooperation, they are also highly complex from technical, legal, and political perspectives. As a result, they present numerous challenges even to those government officials who might be interested in negotiating them.

Nongovernmental actors can play indispensable roles in laying the foundations for subsequent government-to-government discussions on these arrangements. Scholar-practitioners at think tanks, universities, and private law firms and consultancies can develop technical proposals, craft legal instruments, and brainstorm political strategies that can be used as the basis for negotiations by governments. Likewise, companies with expertise and interest in resource extraction, and advocacy organizations with commitment to environmental conservation, can work separately — or ideally together — to develop proposals for such mechanisms and advocate them to all relevant governments. In addition to helping governments navigate the complexity of such arrangements, such civil society engagement would also help to build support for governments to pursue mutually acceptable compromise in disputes, acting as a countervailing force against rigid, maximal, nationalist resistance.

Foreign Military Activities in the EEZ. One of the principal underlying sources of tension and primary drivers of crisis instability in the U.S.-China relationship is the lack of

¹¹⁹ Susan Thornton, "Averting Conflict in the South China Sea: Steps To Restore Rules And Restraint," in Ryan Hass, Ryan McElveen, and Robert D. Williams, eds., *The Future of US Policy toward China: Recommendations for the Biden Administration* (John L. Thornton China Center at Brookings and Yale Law School Paul Tsai China Center, November 2020), https://www.brookings.edu/wp-content/uploads/2020/11/FP_20201210_us_china_monograph.pdf, pp. 46-51.

¹²⁰ John McManus, Kwang-Tsao Shao, and Szu-Yin Lin, "Toward Establishing a Spratly Islands International Marine Peace Park: Ecological Importance and Supportive Collaborative Activities with an Emphasis on the Role of Taiwan," *Ocean Development & International Law*, Vol. 41, No. 3 (July 2010), pp. 270-280, <https://www.tandfonline.com/doi/abs/10.1080/00908320.2010.499303>; Oliver Ward, "The overlooked casualty in the South China Sea dispute," *ASEAN Today*, Jan. 31, 2019, <https://www.aseantoday.com/2019/01/the-overlooked-casualty-in-the-south-china-sea-dispute>.

agreement and clarity on the rules that apply to foreign military activities in coastal states' exclusive economic zones. The United Nations Convention on the Law of the Sea is notably ambiguous on this subject, which creates considerable space for countries to assert their own widely diverging rules for foreign military vessels' operations in their EEZs. Reaching agreement on a set of rules for foreign military activities in the EEZ would help to prevent misunderstanding and miscalculation, enhance transparency and predictability, and reduce the likelihood of operational clashes stemming from different applications of the relevant international law.¹²¹

Given the long-standing sensitivities on this subject, especially between the United States and China, but also on the part of other nations, this is an area where Track II engagement by nongovernmental experts from a range of nations can play a particularly valuable role in sorting out thorny issues and providing constructive compromise proposals. In fact, such Track II work has already been conducted in the past by the EEZ Group 21, a collection of experts from several countries in the region — including Japan, the United States, China, South Korea, Indonesia, the Philippines, Vietnam, Australia, India, and Russia — convened by the Ocean Policy Research Foundation, a Japanese think tank. The EEZ Group 21 issued a set of recommended guidelines for navigation and overflight in the EEZ in 2005, with hopes that they would be adopted as the basis for negotiation by governments in the Asia-Pacific region.¹²² Despite involvement by leading U.S. legal experts, these guidelines were dismissed by U.S. policymakers "due to concerns that they restricted unduly the freedoms of navigation and overflight available in an EEZ." In response, the Ocean Policy Research Foundation, in consultation with several members of the original group, led an effort to develop a new set of revised principles. These revised principles, issued in 2013, were aimed to address those outstanding concerns in order to gain more support for the principles among states and in regional intergovernmental forums.¹²³

These principles represent a promising basis for progress on clarifying key contentious issues related to foreign military activities in the EEZ. However, amid increasing tensions in the South China Sea since 2013, these rules have not yet been adopted as the basis for official dialogue. In their official bilateral dialogues in the years after 2013, Washington and Beijing instead focused on more tactical low-hanging fruit, such as the negotiation of bilateral agreements on mutual notification of major military activities, safety in aerial and maritime encounters, and crisis communication via the Defense Telephone Link and joint staff dialogue mechanism. While these agreements were important, they did not clarify underlying differences of interpretation regarding the range of permissible behaviors of foreign military vessels and aircraft in the EEZ.

In order to resurface these recommendations and place them on the agenda of policymakers, nongovernmental scholar-practitioners could once again revisit the

¹²¹ Swaine, Lee, and Odell, *Ibid.*, p. 51.

¹²² EEZ Group 21, "Guidelines for Navigation and Overflight in the Exclusive Economic Zone," Ocean Policy Research Foundation, September 26, 2005, Tokyo, Japan, <https://nippon.zaidan.info/seikabutsu/2005/00816/pdf/0001.pdf>.

¹²³ "Principles for Building Confidence and Security in the Exclusive Economic Zones of the Asia-Pacific. Tokyo," Ocean Policy Research Foundation, October 30, 2013, https://www.spf.org/_opri_media/publication/pdf/2014_03_02.pdf.

recommendations to evaluate whether they require further revision in light of existing circumstances. They should then organize a more sustained effort to promote the adoption or official negotiation of these guidelines — first, on a bilateral basis between the United States and China, given the central importance of those two states' agreeing on the appropriate interpretations, and then on a broader regional basis, perhaps through negotiations hosted by an ASEAN-centered institution such as the ASEAN Regional Forum.

Conclusion

As nuclear superpowers with divergent political systems and increasingly frequent military interactions, the United States and China have many fundamental disagreements on issues that do not permit much room for cooperation or even dialogue. At the same time, Washington and Beijing share an existential interest in managing these disagreements and preventing them from developing into political-military crises that could escalate into conflict and war. Nongovernmental actors can play an important role in facilitating better crisis management and de-escalation. They can do so by avoiding actions and demands that could constrain the U.S. and Chinese governments' bargaining space; by providing communication channels, outside options, and creative proposals to each government; and by encouraging officials to avoid escalation and accept compromise during crises. In addition, civil society can help lay the groundwork for significantly more robust crisis prevention mechanisms by developing detailed proposals that can serve as the basis for negotiations among the United States, China, and other relevant actors, and then by organizing to create sustained support for such proposals.