

Trade, Aid and Human Rights: China's Africa Policy in Perspective

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Abstract. This paper looks at China's aggressive hunt for resources in Africa, reviews the criticisms levelled against China regarding its involvement in the continent, examines continuities, changes and the dynamics of China's Africa policy, and evaluates the prospects of integrating human rights into China's foreign policy. Given growing trade and investment relationship between China and Africa, what is the role of human rights in China's Africa policy? Can China integrate human rights into its foreign policy considerations? Drawing on the history of US' attempt to integrate human rights into the United States' foreign policy, what are the prospects of and challenges to integrating human rights into China's Africa policy? Instead of 'human rights', might the concept of 'development' be a more useful but no less effective paradigm for infusing people oriented values into China's Africa policy calculations?

1. Introduction

On Friday, April 18, 2008, MV "An Yue Jiang", a Chinese ship carrying 77 tonnes of ammunition to Zimbabwe was turned away from South Africa after a court refused to allow the weapons to be transported across the country.¹ The ship, which had been at anchor off Durban on South Africa's Indian Ocean coast since April 14, 2008, ran into stiff trouble when the South African Transport and Allied Workers Union (SATAWU) refused to unload the weapons and the South African Litigation Center (SALC) brought an emergency legal motion asking the court for an order suspending the operation of the permit that authorized the conveyance of arms discharged from the vessel. Initially, China saw nothing wrong with the shipment. Chinese Foreign Ministry spokeswoman Jiang Yu said that the weapons were ordered a year before and was "perfectly normal."² Unable to unload its cargo in South Africa or other neighbouring countries, the vessel eventually headed home.³ The shipment of an estimated three million rounds of ammunition, 1,500 rocket-propelled grenades, and 2,500 mortar rounds amid serious political crisis in Zimbabwe and mounting concerns about possible bloodshed in the country renewed concerns in many quarters, about China's growing influence in Africa and also fuelled criticisms of China's human rights policy or lack thereof in the continent. This paper takes a look at China's aggressive hunt for resources in Africa, reviews the criticisms levelled against China regarding its involvement in the continent, and evaluates the prospects of integrating human rights consideration into China's Africa policy. Several questions are raised and addressed. What is the role of human rights in China's Africa policy? Drawing on the history of efforts to integrate human rights into the United States' foreign policy, what are the prospects of and challenges to integrating human rights into China's Africa policy? Instead of 'human rights' might the concept of 'development' be a more useful, but no less effective paradigm for infusing people-oriented values into China's Africa policy calculations?

2. China-Africa Trade: Context and Framework

Since 2000, when China rolled out an economic offensive on Africa, relationships between China and countries in Africa have grown steadily.⁴ China-African trade grew by 700 percent in the 1990s. In 2004, China's export to and

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¹ Charles Mangwiro, "Zimbabwe arms ship heads for Angola, Mozambique says," Reuters, 19 April 2008, available at: <http://www.reuters.com/article/topNews/idUSL1862930420080419>

² BBC News, "China May Recall Zimbabwe Weapons," 22 April 2008, available at <http://newsvote.bbc.co.uk/mpapps/pagetools/print/news.bbc.co.uk/1/hi/world/africa/7360438.stm>

³ The Guardian, "China arms ship left with no port of call as Britain and US apply pressure," 23 April 2008, available at <http://www.guardian.co.uk/world/2008/apr/23/zimbabwe.china>

⁴ Leni Wild and David Mephan, *Introduction*, THE NEW SINOSPHERE: CHINA IN AFRICA 1 (2006) (observing that although China is not a new player in Africa, "its economic and political presence on the continent and its impact have grown

import from Africa was over US\$10 billion respectively⁵ and the total trade volume reached US\$29.46 billion, an increase of 58.9% over 2003. In 2005, Sino-African trade totalled US\$32 billion. Between January and November 2007, China-Africa trade volume reached US\$65.9 billion: an increase of 31% compared with the same period in 2006.⁶ China-Africa Trade is expected to top US\$100 billion by 2010.⁷ According to China's Ministry of Commerce, bilateral trade volume between China and South Africa and China and Angola each surpasses US\$10 billion in 2006. South Africa and Angola are ranked 29 and 31 amongst China's major trading partners. Chinese investment in Africa is also growing. In 2004 alone, 7 Chinese-funded enterprises were established in Africa, with total contracted investment of US\$432 million and actual investment of US\$135 million. By the end of 2004, an estimated 715 Chinese-funded enterprises were operating in Africa with a total contracted investment of US\$1.36 billion and actual investment of US\$625 million. In November 2007, the Industrial and Commercial Bank of China acquired 20 percent of the shares of Africa's largest bank, the Standard Bank of South Africa, with US\$5.5 billion. This is reportedly "the largest foreign investment in Africa," and "China's largest overseas investment."⁸

2006 was China's unofficial Year of Africa.⁹ China's Africa Policy was issued in January 2006.¹⁰ In issuing its Africa policy, Beijing wished "to present the world the objectives of China's policy towards Africa and the measures to achieve them, and its proposals for cooperation in various fields in the coming years, with a view to promoting the steady growth of China-Africa relations in the long term and bringing the mutually-beneficial cooperation to a new stage."¹¹ The scope of the unfolding relationship is potentially wide. China's Africa Policy promises enhanced cooperation in a broad range of fields including the political field, the economic field, the field of education, science, technology, culture, and health, and the field of peace and security. In the economic field, for example, Beijing promises enhanced cooperation in the areas of trade, investment, finance, agriculture, infrastructural development, tourism, debt relief and debt reduction, and resource cooperation. Specifically, China promises to "do its best to provide and gradually increase assistance to African nations *with no political strings attached*."¹²

2.1 Why is China Interested in Africa?

There is a broad consensus that what drives the present Sino-African relation is China's need for oil and other natural resources. However, energy and natural resource investments appear to be just one part of China's interest in Africa.

2.1.1 China's Natural Resource Hunt

The pattern of trade between China and Africa indicates that gaining access to the continent's foreign resources is a priority for Beijing. China's imports from Africa concentrate on crude oil and other natural resources. Enviably, double-digit economic growth in China in the past two decades has pushed up energy consumption and demands in the country making energy security a top priority for Beijing. In the 1950s, China was self-sufficient in oil. China has been a net oil importer since 1993. Today, China is the world's second largest consumer of oil behind

exponentially in the last few years."). Harry Broadman, *AFRICA'S SILK ROAD: CHINA AND INDIA'S NEW ECONOMIC FRONTIER I* (2007) (observing that today's scale of China and India trade and investment flow with Africa are "wholly unprecedented.").

⁵ Embassy of the People's Republic Of China in South Africa, "Perspectives on China-Africa Trade And Economic Cooperation---Presentation by Minister Counselor Liang Guixuan at the 4th Tswalu Dialogue," 9 May 2005, <http://za.china-embassy.org/eng/znjl/t194633.htm>

⁶ People's Daily Online, "China-Africa Trade Volume Grew By 31% in the First 11 Months," 28 December 2007, available at <http://english.people.com.cn/90001/90776/90883/6329478.html>

⁷ Xinhua, "China-Africa Trade Expected to Top US\$100 billion by 2010," 11 November 2006, available at http://www.chinadaily.com.cn/china/2006-11/04/content_724730.htm

⁸ People's Daily Online, "China-Africa Trade Volume Grew By 31% in the First 11 Months," 28 December 2007, available at <http://english.people.com.cn/90001/90776/90883/6329478.html>

⁹ Jonathan Katzenellenbogen, *Behind the Chinese 'Year of Africa'*, Business Day (South Africa), 21 June 2006, available at: <http://www.uofaweb.ualberta.ca/chinainstitute/nav03.cfm?nav03=47295&nav02=43782&nav01=43092> (noting that in Beijing, senior foreign ministry officials call 2006 China's year of Africa and that this attention is a strong signal that China is putting down its marker as a serious player on the continent).

¹⁰ Ministry of Foreign Affairs of the People's Republic of China, "China's Africa Policy," 12 January 2006, available at <http://www.fmprc.gov.cn/eng/zxxx/t230615.htm>

¹¹ *Id.*

¹² *Id.* (emphasis added).

United States.¹³ The Energy Information Administration predicts that China's oil demand will reach 9.4 million bbl/d by 2020, with net imports of 5.9 million bbl/d, making it a major factor in the world oil market.¹⁴

Given present domestic demands for oil, growing future dependence on oil imports, and Beijing's declared intention to build a national strategic petroleum reserve, Africa is of strategic importance to China.¹⁵ Expansion of exploration and production joint ventures with foreign companies is a top priority for Beijing. China's foray into Africa is calculated. The modus operandi is quite simple. Backed by Beijing, state-owned Chinese firms court supplier states in Africa by cultivating bilateral relations and promising aid, increased commerce, and other forms of development assistance. Leading this resource hunt are the China Petrochemical Corporation (Sinopec),¹⁶ the China National Petroleum Corporation (CNPC),¹⁷ and the China National Offshore Oil Corporation (CNOOC).¹⁸ It is reported that the China's Ministry of Commerce and the National Development and Reform Commission have published a list of countries and resources in which investment is eligible for state subsidies, a clear effort to encourage resource hunt.¹⁹

China's effort is paying off. Today, Africa is a key oil exporter to China. In 2005, about 30 percent of China's total oil import (nearly 701,000 bpd) came from Africa.²⁰ China has oil business deals with majority, if not most, of the countries in Africa that currently produce oil or have confirmed oil reserves. China has sought oil deals from numerous countries in the region including Nigeria, Sudan, Angola, Chad, Algeria, Gabon, Equatorial Guinea, and the Republic of Congo.

2.1.2 Political and Diplomatic Ties

The relationship between China and Africa dates back to the 1950s. Indeed the foundation stone of China-Africa relations was laid in 1955 at the Asia-African Conference (the Bandung Conference) held in Bandung, Indonesia from April 18-April 24, 1955. Today, China has diplomatic and economic ties with 53 countries in Africa. China's foray into Africa reflects China's interest in expanding South-South cooperation. China believes that "[w]ith huge market potential and special features of development models, [developing countries] may support one another and draw on each other's strong points to achieve common development for mutual benefit."²¹ Beijing's vision is that through active cooperation, developing countries can change the present rules of the game in the international system.²²

2.2 The Evolving Structure for Sino-Africa Trade

The Forum on China-Africa Cooperation ("Forum" or "FOCAC") was formally launched in October 2000 to serve as a vehicle for promoting China-Africa friendship and cooperation. In October 2000, Beijing hosted a ministerial conference of the Forum ("First Ministerial Conference"), the first of its kind in the history of China-Africa relations.²³ FOCAC serves as the official platform for "collective dialogue and a cooperation mechanism" between China and cooperating African States (the Two Sides).²⁴ Five core documents spell out the

¹³ "Testimony of Guy Caruso, Administrator, Energy Information Administration Before the Commission on US-China Economic and Security Review. Hearing on China's Energy Needs and Strategies." 30 October 2003, available at http://www.eia.doe.gov/ncic/speeches/caruso_china/chinat103003.htm (hereinafter Guy Caruso)

¹⁴ Cindy Hurst of the Institute for the Analysis of Global Security has also projected that "China's oil demand will reach 14.2 bpd by 2025." See Cindy Hurst, CHINA'S OIL RUSH IN AFRICA 3 (2006).

¹⁵ In February 2003, Chinese officials announced a policy decision to support the creation of a strategic petroleum reserve. It is reported that Beijing has been studying several options for the development of storage capacity. See Caruso, *supra* note 13.

¹⁶ See <http://english.sinopec.com/>

¹⁷ See <http://www.cnpc.com.cn/eng/>

¹⁸ See <http://www.cnooc.com.cn/yyww/>

¹⁹ David Zweig and Bi Jianhai, "China's Global Hunt for Energy," *Foreign Affairs*, Volume 84(5), 25-38, at 27 (2005).

²⁰ *Id.*, at 29

²¹ Ministry of Foreign Affairs of the Peoples' Republic of China, *China's Stand on South-South Cooperation*, 2003/08/18. Available at: <http://www.fmprc.gov.cn/eng/wjdt/wjzc/t24884.htm>

²² *Id.* ("The numerous developing countries should strengthen solidarity, closely cooperate in international affairs and coordinate with each other. They should take an active part in formulating the "rules of the game" in international economic field, propel the reform of the international economic, financial and trade systems and strive to win over the right to equal development.")

²³ The First Ministerial Conference took place October 10-12, 2000. See China.org.cn, *China-Africa Cooperation Forum: Past, Present and Future*. Available from: <http://china.org.cn/english/features/China-Africa/82189.htm> (last visited 12/2/06) (hereinafter "China-Africa Cooperation Forum: Past, Present and Future").

²⁴ The two of the stated purposes of FOCAC are "to strengthen consultation and expand cooperation," and to "promote [] both political dialogue and economic cooperation and trade, with a view to seeking mutual reinforcement and common

legal and policy framework of the unfolding trade and investment relations between the Two Sides (the Framework Documents). These are: the 2000 Beijing Declaration of the Forum on China-Africa Cooperation (the 2000 Beijing Declaration),²⁵ the 2000 Programme for China-Africa Cooperation in Economic and Social Development (the 2000 Programme for Cooperation),²⁶ the Forum on China-Africa Cooperation Addis Ababa Action Plan 2004-2006 (Addis Ababa Action Plan),²⁷ the Declaration of the Beijing Summit Of the Forum on China-Africa Cooperation ("Declaration of the Beijing Summit")²⁸ and the Forum on China-Africa Cooperation - Beijing Action Plan 2007-2009 (2007-2009 Action Plan).²⁹ There is, as yet, no free trade agreement between the Two Sides although there are bilateral trade and investment agreements between China and individual countries in the continent.

2.3 China-Africa Relations: A Win-Win Strategy?

China's hunt for natural resources has been a boon for some countries in Africa. The relationship is allowing resource-rich states in the continent "to exploit untapped resources to gain leverage and to negotiate better deals with older customers." Arguably, there is opportunity both sides to benefit. On the one hand, China's extraordinary growth is increasing its dependence on foreign, including Africa's resources. On the other hand, China's demand for resources could pave the way for African states to maximize the returns from their natural resources, acquire needed technology, and improve their infrastructure. On November 4, 2006, Chinese President Hu Jintao announced an eight-point development agenda that offered hope for Africa's development. Among the measures was a plan to establish a US\$5 billion China-Africa development fund to encourage and support Chinese enterprises to invest in Africa. On March 14, 2007, the Chinese government (the Council) approved the establishment of the China-Africa Development Fund ("The CADFund").³⁰ The China-Africa Development Fund started business on June 26, 2007. According to China Development Bank, which provided the first-phase funding for the project, CADFund will invest in the Chinese enterprises whose trade and economic activities have reached or will reach Africa and the enterprises and projects in Africa invested or to be invested by Chinese enterprises.³¹

The possibility of a win-win outcome may be undercut by the fact that although African leaders have openly welcomed Beijing's courtship, they have been slow to formulate strategies that will ensure that Africa and Africans benefit from the unfolding relationship.³² So far, Beijing is defining the terms of engagement and discussions revolve around Beijing's plans and strategies.

3. China's Energy Diplomacy and Human Rights

Undoubtedly, a need for natural resources presently drives China's Africa policy. Whether there is any room for human right consideration in Beijing's foreign policy is debatable.³³ According to David Zweig and Bi Jianhai, "Beijing has been able to adapt its foreign policy to its domestic development strategy."³⁴ It is not surprising that China's African Policy is silent on the place of human rights in Beijing's policy towards Africa. According to China's African Policy, "[s]incerity, equality and mutual benefit, solidarity and common

development." See, Forum on China-Africa Cooperation, *Characteristics of FOCAC*, <http://www.fmprc.gov.cn/zflt/eng/gylt/tj/t157576.htm>

²⁵ See <http://www.fmprc.gov.cn/zflt/eng/gylt/dyjbzhy/>

²⁶ Forum on China-Africa Cooperation, *Programme for China-Africa Cooperation in Economic and Social Development, Platform for Cooperation*, <http://www.fmprc.gov.cn/zflt/eng/zyzl/hywj/t157834.htm>

²⁷ *Forum on China-Africa Cooperation-Addis Ababa Action Plan (2004-2006)*; available at: www.china.org.cn/english/features/focac/185197.htm

²⁸ China-Africa Forum, *Declaration of the Beijing Summit Of the Forum on China-Africa Cooperation*, http://english.focacsummit.org/2006-11/16/content_6586.htm (hereinafter "Declaration of the Beijing Summit").

²⁹ See <http://www.fmprc.gov.cn/zflt/eng/zyzl/hywj/t280369.htm>

³⁰ Xinhua, "China approves China-Africa Development Fund," 14 May 2007, available at http://chinadaily.com.cn/china/2007-05/14/content_871632.htm

³¹ China Development Bank, *CAD-Fund*, available at <http://www.cdb.com.cn/english/Column.asp?ColumnId=176>

³² For example, the 2007 Annual Meetings of the Boards of Governors of the African Development Bank Group (African Development Bank and the African Development Fund) took place in Shanghai, China, from 16 to 17 May 2007. The meeting was the bank's second annual meeting held outside Africa and the first of its kind held in Asia; a 2001 meeting took place in Spain. African Development Bank Group, *2007 Annual Meetings*, http://www.afdb.org/portal/page?_pageid=473,970835&_dad=portal&_schema=PORTAL. The theme of the 2007

meeting was "Africa and Asia: Partners in Development."

³³ David Zweig and Bi Jianhai, *supra* note 23, at 25-38.

³⁴ *Id.*

development” are the principles guiding China-Africa exchange and cooperation and the driving force lasting China-Africa relations. As yet, the human rights implications of these highly malleable terms are unclear.

3.1 Criticisms of China’s Africa Policy

The apparent absence of human rights considerations in China’s Africa policy is a concern to critics. One important feature of Beijing’s resource-based foreign policy David Zweig and Bi Jianhai have observed “is that it has little room for morality.”³⁵ Four aspects of China’s policy in Africa of concern to critics are: (a) Beijing’s general indifference to human rights situation in the continent; (b) Beijing’s de facto support of brutal dictators; (c) Beijing’s direct and indirect interference in unilateral and multilateral human rights initiatives; and (d) Beijing’s perceived insensitivity to trade/human rights linkages.

3.1.1. General Indifference

Critics accuse China of deliberate indifference to human rights situation in Africa. According to Kenneth Roth, Executive Director of Human Rights Watch, “[w]hen it comes to human rights, China foreign policy is deliberately agnostic.”³⁶ The perceived indifference is rooted in China’s policy of non-interference in internal affairs of sovereign states. To China, human rights are relative, and each country must have the freedom to define its understanding of human rights and timetable for reaching them. Regarding the crisis in Sudan, China’s Deputy Foreign Minister is quoted as saying: “[b]usiness is business. We try to separate politics from business. Secondly, I think the internal situation in Sudan is an internal affair, and we are not in a position to impose on them.”³⁷ Critics believe that Beijing’s non-interference policy is anything but neutral. As Roth put it, “[w]hen Western governments try to use economic pressure to secure human rights improvements, China’s no-strings rule gives dictators the means to resist.”³⁸

3.1.2 De Facto Support of Dictators

Beijing is also accused of propping up repressive regimes in Africa to the detriment of the ordinary Africans. China’s top three crude-oil suppliers in Africa are Angola, Sudan and Congo – countries with grim human rights record. China is the leading developer of Sudan’s oil reserve.³⁹ CNPC is the largest shareholder in the Greater Nile Petroleum Operating Company (GNPOC), the principle consortium involved in oil exploration and production in Sudan.⁴⁰ In 1999 China’s imported less than one percent of its oil imports from Sudan. Today, China is Sudan’s main oil producer, exporter, and importer.⁴¹ According to Dr. Yitzhak Shichor, Professor of East Asian Studies and Political Science at the University of Haifa, “China’s total imports from Sudan increased tenfold, from US \$1.47 million in 1998 ... to US \$1.71 billion in 2004. In 2004, 64.3 percent of Sudan’s total oil exports went to China. Today, China is Sudan’s top trading partner. Nicholas D. Kristof, op-ed columnist for the New York Times has accused China of “abetting genocide in Darfur and in effect undermining U.N. military deployment there.”⁴² He writes that “in exchange for access to Sudanese oil, Beijing is financing, diplomatically protecting and supplying the arms for the first genocide of the 21st century.”⁴³

3.2 Interference in Unilateral and Multilateral Human Rights Initiatives

Beyond China’s indifference to human rights conditions in Africa is the concern that Beijing is undermining unilateral and multilateral efforts to isolate rouge governments in Africa and punish them for failing to respect human rights. According to Roth, “China’s policies have not only propped up some of the continent’s worst human rights abusers, but also weakened the leverage of others trying to promote greater respect for human

³⁵ *Id.*

³⁶ Kenneth Roth, “China’s Silence Boost Tyrants,” *International Herald Tribune*, 2006, available at <http://www.iht.com/articles/2006/04/19/opinion/edroth.php>

³⁷ French Howard, “China in Africa: All Trade, With No Political Baggage,” *New York Times*, Aug. 8, 2004, p. 4.

³⁸ Kenneth Roth, “China’s silence boosts tyrants,” *International Herald Tribune*, 19 April 2006, available at <http://www.iht.com/articles/2006/04/19/opinion/edroth.php>

³⁹ Cindy Hurst, *supra* note 18, at 7.

⁴⁰ *Id.*

⁴¹ Yitzhak Shichor, “Sudan: China’s Outpost in Africa,” *China Brief*, Volume 5, Issue 21 (October 13, 2005)

⁴² Nicholas D. Kristof, “China’s Genocide Olympics,” *New York Times*, January 24, 2008. http://www.nytimes.com/2008/01/24/opinion/24kristof.html?_r=1&oref=slogin

⁴³ *Id.*

rights.”⁴⁴ In the past, Beijing has either blocked or abstained from voting on UN resolutions designed to impose a measure of sanctions against the Sudanese government. In July 30, 2004, China abstained from voting on resolution 1556 that demanded the disarmament of the janjaweed militias in Darfur and threatened further measures in the event of non-compliance.⁴⁵ On April 25, 2006, China abstained from voting on resolution 1672 that imposed financial sanctions and travel restrictions on 4 Sudanese.⁴⁶ On August 31, 2006, China abstained from voting on resolution 1706 that had the effect of expanding the mandate of UN Mission in Sudan (UNMIS) to include Darfur.⁴⁷ China eventually voted in favour of a severely weakened resolution 1769 establishing a joint UN-AU “hybrid” force to replace resolution 1706 on July 31, 2007.⁴⁸

3.2.1 Arms Sales

China’s arms sale to regimes in Africa is also a concern. According to *Le Monde*, between 1955 and 1977, China sold about \$142 million worth of military equipment to Africa.⁴⁹ China’s arms sales to states and groups in Africa made up 10 percent of all conventional arms transfers to the continent between 1996 and 2003.⁵⁰ China is the largest arms supplier to Sudan. In 2005, China sold \$8 million in weapons, aircraft and spare parts to Sudan. China has also sold weapons and/or provided military training to a number of other countries including, Equatorial Guinea, Ethiopia, Eritrea, Tanzania, and Zimbabwe. Reports suggest that arms sales from China is more centralized than was previously thought. A 1999 RAND Corporation report found that China’s arms transfers were not motivated primarily by the desire to generate export earnings but were motivated by foreign policy considerations.⁵¹ The report also found that the Chinese government exerted more control over transfers than previously reported and that China’s weapons export system is quite centralized. While arms sales do not *ipso facto* violate international human rights norms, the fact that Africa has been plagued by genocidal wars that have destroyed millions of lives and undermined human development makes arms sales to brutal regimes and groups in Africa a matter of grave concern.

3.2.2 Insensitivity to Trade/Human Rights Linkages

Whether Sino-Africa trade relations is exploitative in nature and whether Africa and Africans will actually benefit from the unfolding relationship is a matter of concern to civil society groups in Africa. There are several concerns. First, there is the concern that the structure and pattern of Sino-Africa trade today replicates the pattern of trade between countries in Africa and their European colonizers. As China’s Minister Counselor, Liang Guixuan, readily admit: “the main products Chinese exports to Africa are machinery and electronics, textile and apparel, hi-tech product and finished goods, while imports from Africa concentrate on crude oil, iron ore, cotton, diamond and other natural resources and primary goods. For those African countries that do not have much oil or raw materials to export, trade with China is less mutually complementary, which result in the rise of their trade deficit.”⁵²

Second, there is a growing belief that China thrives on Africa’s conflict and misery and will do anything to maintain the present status quo. Sudan is an example. Yitzhak Shichor put it, “China’s predominance in Sudan is an outcome of two complementary processes: China’s search for energy supplies, and Sudan’s internal deterioration. Declining security conditions, the growing abuse of human rights, and Khartoum’s alleged support terrorism have created a vacuum that has sucked China into Sudan.” Arguably, the status quo benefits China by providing a level of political risks that is high enough to deter the international oil companies from competing with Chinese corporations for assets in Sudan, yet low enough not to seriously jeopardize business operations.⁵³

⁴⁴ Human rights Watch, “China-Africa Summit: Focus on Human Rights, Not Just Trade,” available at <http://hrw.org/english/docs/2006/11/02/china14498.htm>

⁴⁵ See <http://daccessdds.un.org/doc/UNDOC/GEN/N04/446/02/PDF/N0444602.pdf?OpenElement>

⁴⁶ See S/RES/1672 (2006). Available at:

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/326/77/PDF/N0632677.pdf?OpenElement>

⁴⁷ See S/RES/1706 (2006). Available from:

<http://daccessdds.un.org/doc/UNDOC/GEN/N06/484/64/PDF/N0648464.pdf?OpenElement>

⁴⁸ See S/RES/1769 (2007). Available from:

<http://daccessdds.un.org/doc/UNDOC/GEN/N07/445/52/PDF/N0744552.pdf?OpenElement>

⁴⁹ Esther Pan, “China, Africa, Oil,” (January 26, 2007), available at: <http://www.cfr.org/publication/9557/>

⁵⁰ *Id.*

⁵¹ Daniel Byman and Roger Cliff, CHINA’S ARMS SALE: MOTIVATIONS AND IMPLICATIONS (1999).

⁵² Perspectives on China-Africa Trade And Economic Cooperation---Presentation by Minister Counselor Liang Guixuan at the 4th Tswalu Dialogue. <http://za.china-embassy.org/eng/znlj/t194633.htm>

⁵³ Erica S. Downs, “The Fact and Fiction of Sino-African Energy Relations,” *China Security*, Vol. 3 No. 3, Summer 2007, pp. 42-64 (noting that the status quo in Sudan “benefit CONPC by providing a level of political risk that is high enough to deter the

Third, China has been implicated in the atrocities in Darfur and Chinese corporations are accused of human rights (e.g. labour rights) violations elsewhere in Africa. Regarding Darfur, Allegations are rife that Beijing is not only arming Khartoum but is also cooperating in the forced displacement of peasants from some oil concession regions.

3.3 What Do Critics Expect From China?

Critics expect Beijing to do more to promote human rights in Africa. Specifically, there has been pressure on Beijing to condemn atrocities in Darfur and withdraw active support to dictators in the region. As Sophie Richardson, Deputy Director at Human Rights Watch (Asia Division) put it, “China insists that it will not ‘interfere’ in other countries’ domestic affairs, but it also claims to be great friend of the African people and a responsible major power. But that doesn’t square with the fact that China is silent while mass killings go on in Darfur.”⁵⁴ At the very least, critics expect China to use its leverage to stop the repressive practices of its closest allies. Regarding Zimbabwe, Human Rights Watch has called on China to “refuse to sell censoring technology to Mugabe, who uses it to brutally repress his real and imaginary opponents.”⁵⁵ On Darfur, Human Rights Watch recommended that China suspend aid to Sudan and press Sudanese President, Omar El Bashir, to permit the presence of a UN peacekeeping force.⁵⁶ Nicholas Kristof has also argued that China’s intervention in Sudan is crucial⁵⁷ and U.S. Congressmen have also weighed in the issue and are demanding more action from Beijing. In a strongly worded letter to China’s President Hu Jintao, more than 100 U.S. congressmen hinted that the Beijing’s 2008 Olympic Games could be affected if China fails to try to halt the bloodshed in Darfur.⁵⁸

Beijing has not been entirely immune to criticisms. China has denied allegations that it supplied arms to Sudan for use in Darfur. In April, 2007, China urged Sudan “in unusually strong terms” to show greater flexibility on the UN peace plan for Darfur.⁵⁹ Overcoming its long-standing policy on non-interference, in May 2007, China appointed Liu Gijun as a special Africa envoy to focus on Darfur following criticism of its role in Sudan.⁶⁰ Beijing has also sent nearly 300 military engineers to help international peacekeeping forces in Darfur. Whether these gestures suggest a new beginning for China or just a public-relations exercise designed to placate its critics remains to be seen.

4. Integrating Human Rights into China’s Africa Policy: Lessons from the United States

Can China integrate human rights into its Africa policy and, if so, how? Why? What are the prospects? What are the challenges? What lessons may be gained from U.S. experience with integrating human rights into its foreign policy?

4.1 Human Rights and U.S. Foreign Policy

Human rights in United States foreign policy has had a checkered past and continues to play an ambiguous role in U.S. foreign policy calculations today. Prior to 1970, U.S. foreign policy was largely devoid of human rights considerations. Although the United States was instrumental in crafting the Universal Declaration of Human Rights (UDHR) and was a key architect of the main human rights bodies of the United Nations, “it took until the late 1970s for human rights to be explicitly made a major part of US foreign policy formulation.”⁶¹

⁵⁴ Human rights Watch, “China-Africa Summit: Focus on Human Rights, Not Just Trade,” available <http://hrw.org/english/docs/2006/11/02/china14498.htm>

⁵⁵ *Id.*

⁵⁶ *Id.*

⁵⁷ According to Kristof, “[i]f Beijing were to suspend all transfers of arms and spare parts to Sudan until a peace deal is reached in Darfur, then that would change the dynamic. President Omar al-Bashir of Sudan would be terrified — especially since he is now preparing to resume war with South Sudan — and would realize that China is no longer willing to let its Olympics be stained by Darfuri blood.” Nicholas D. Kristof, *supra* note 50.

⁵⁸ BBC News, “China Appoints Special Envoy for Darfur,” Thursday, 10 May 2007, available at <http://news.bbc.co.uk/1/hi/world/africa/6641929.stm>

⁵⁹ BBC News, China’s balancing act over Darfur, Thursday, 17 May 2007. <http://news.bbc.co.uk/1/hi/world/asia-pacific/6665983.stm>

⁶⁰ BBC News, China Appoints Special Envoy for Darfur, Thursday, 10 May 2007. <http://news.bbc.co.uk/1/hi/world/africa/6641929.stm>

⁶¹ Roberta Cohen, “Integrating Human Rights in US Foreign Policy: The History, The Challenge, and The Criteria for an Effective Policy,” 2008, available at http://www.brookings.edu/speeches/2008/04_human_rights_cohen.aspx

4.1.1 Between Morality and Pragmatism

While President Jimmy Carter declared human rights to be a “central concern” of U.S. foreign policy during his administration, succeeding presidents did not necessarily follow suit. Under President Reagan, the policy of realpolitik advanced by Henry Kissinger did not include human rights calculations.⁶² Indeed, when confronted with the issue of a U.S. human rights policy, Kissinger, at his confirmation as the Secretary of State, stated: “I believe it is dangerous for us to make the domestic policy of countries around the world a direct objective of U.S. foreign policy.” In a 1977 article, Kissinger argued that one of the basic challenges of foreign policy was “the perennial tension between morality and pragmatism.” Although admitting that human rights “must be an essential component” of U.S. foreign policy, he argued that to pursue it effectively, the U.S. “must take the measure of the dangers and dilemmas along the way.” Kissinger cautioned that because human rights advocacy is a powerful political weapon, the U.S. must be careful that in its application, all moral dividing lines are not eroded.

4.1.2 Congressional Push and Civil Society Engagement

The human rights policy of the 1970s was “a reaction to a foreign policy largely devoid of ethical considerations.”⁶³ It took acts of Congress, prodded by sophisticated and well-informed civil society groups in the United States for the idea of a U.S. human rights policy to be taken seriously.⁶⁴ The idea for a U.S. human rights policy was a direct result of the 1974 report issued by a subcommittee of the House Foreign Affairs Committee. The report entitled “Human Rights in the World Community: A Call for U.S. Leadership” called on the State Department to raise the priority of human rights in foreign policy and noted that hitherto, the U.S. government had embraced governments that practiced torture, and unabashedly violated every human rights guarantee pronounced by the world community. Following the 1974 report, Congress passed several legislations tying foreign aid to human rights performance.⁶⁵ The result was that by 1976 “a substantial amount of legislation, all initiated by Congress in the face of outright opposition by, or at best tepid approval of, the Nixon-Ford administrations was in place and ready for the Carter administration to use.”⁶⁶

4.1.3 Human Rights, Foreign Policy and the Battle for Dominance

The 1974 report and the human rights legislations of the decade did not ensure the automatic integration of human rights into U.S. foreign policy. Tension between Congress and the Executive Branch on the wisdom of such integration and the methods of integration was rife. According to Roberta Cohen, “[i]t was an out and out war. When State Department Officials in the Nixon and Ford administrations were called upon to testify before Congress on the human rights of governments receiving US military aid or sales, they largely defended the records of those governments. The term “clientism” towards foreign governments came to describe this over-identification with foreign governments accused of human rights abuses

Overall, integrating human rights in U.S. foreign policy is a recent undertaking and one that is plagued with tensions at home, inconsistencies abroad, and disappointments overall. When past presidents, such as President Jimmy Carter, have embraced the human rights policy proposed by Congress and sought to make the promotion of human rights a key aspect of U.S. foreign policy, it has been based on at least three rationales. First, the argument is made that advancing freedom overseas is in line with core American values reflected in the country’s Constitution and bill of rights and would regain for U.S. what moral stature the country has lost.⁶⁷ Second, it is argued that promoting human rights abroad would serve U.S. national interest. In other words, by expanding human rights and democracy throughout the world, U.S. national interest will be indirectly enhanced. Third, it is also argued that the U.S. has a legal right and a responsibility to promote human rights under international law. Overall, the argument is made that promoting human rights and pursuing other foreign policy objectives are not mutually exclusive objectives but are complimentary objectives that can be pursued simultaneously.

⁶² *Id.*

⁶³ *Id.*

⁶⁴ Kenneth Cmiel, “The Emergence of Human Rights Politics in the United States,” 86 *J. Am. History* 1231-1250 (Dec. 1999)(observing that the human rights policy of the 1970s was a direct result of the phenomenal burst of human rights activism in the U.S. just prior to the Carter presidency.).

⁶⁵ In 1974 Congress enacted the Jackson-Vanik Amendment to the Trade Reform Act of 1974, enacted a new Section 502B to the Foreign Assistance Act of 1961, and added Section 116(b) to the Foreign Assistance Act of 1961.

⁶⁶ Kenneth Cmiel, *supra* note 64.

⁶⁷ Roberta Cohen, *supra* note 61.

4.2 Human Rights and China's Africa Policy: Prospects and Challenges

What are the lessons for China and its critics? First, it may be unrealistic, given China's history, to expect Beijing to immediately integrate human rights into China's foreign policy. Second, integrating human rights into foreign policy is often a direct result of pressure from domestic constituencies. Because China presently lacks a strong civil society, there is no internal pressure for reform nor is one likely to develop in the near future. Third, the call for infusion of human rights consideration into China's Africa policy should be based on moral, legal or practical considerations. Fourth, even assuming that China is willing to integrate human rights into its Africa policy considerations, the mechanism for achieving this goal should be seriously considered. Arguably, China need not adopt the same tools that United States has relied on.

For China, there are several challenges to implementing a human rights policy. The first challenge is overcoming China's long-standing policy of non-interference. China's own human rights record and China's conception of human rights also pose a challenge. A third challenge is China's own domestic problems which suggest that China is less likely to be seriously involved in addressing long-standing problems in Africa. A final challenge is the challenge of finding the moral, legal or practical justification for implementing the human rights framework.

4.3 Human Rights and China's Africa Policy: Prospects and Challenges

Ostensibly, China's relationship with Africa is based on the Five Principles of Peaceful Coexistence: mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence. "It is never our view that a country should interfere in another country's internal affairs," China's Deputy Foreign Minister Zhai Jun stated in 2006. "We've never imposed on other countries our values ... and we do not accept other countries imposing their values on us either," the Deputy Foreign Minister added.⁶⁸ China appears to be quite firm on its policy of non-interference. He Wenping, head of African studies at the Chinese Academy of Social Sciences, notes that the principle of non-interference "has played a very positive role in developing Chinese influence,"⁶⁹ that "[d]eveloping countries appreciate it very much,"⁷⁰ and that "[i]t won't change in the near future."⁷¹

China's changing stance on the Darfur crisis suggests that Beijing can be flexible in its application of the non-interference principle. There are internal and external pressures on China to be flexible. Internally, "China wants to be seen as a responsible player on the world stage with a diplomatic stature to match its growing economic might"⁷² Hosting a successful and protest-free Olympic is also a priority for China.⁷³ Externally, with growing criticisms of China's involvement in Darfur, Beijing is under pressure to manage the expectations of the international community while maintaining close ties with Khartoum. In sum, a turn about in China's policy of non-interference is not likely anytime soon. However, incremental adjustments are off the table. As Dan Griffiths rightly notes, "China's leaders are pretty conservative in their outlook. They will not want to perform a major foreign policy u-turn, but these small moves are a sign that they are willing to be increasingly flexible in their approach towards the crisis in Darfur."⁷⁴

4.3.1 China's Conception of Human Rights

Whether China is the best candidate to promote human rights in Africa is debatable. Unlike the United States and other Western democracies that by and large embrace international human rights law, China does not. The result is intense tension between China and Western governments.⁷⁵ China's violation of internationally recognized human

⁶⁸ Peter Ford, "China Woos African Trade," *The Christian Science Monitor*, November 03, 2006, available at <http://www.csmonitor.com/2006/1103/p01s04-woap.html>

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² BBC News, China's Balancing Act Over Darfur, Thursday, 17 May 2007. <http://news.bbc.co.uk/1/hi/world/asia-pacific/6665983.stm>

⁷³ *Id.* ("China does not want anything to impact on the Olympic Games in 2008. Talk of a boycott is the last thing that Chinese politicians want to hear.")

⁷⁴ *Id.*

⁷⁵ As Ming Wang put it: "No issue in the relations between China and West in the past decades has inspired so much passion as human rights..... To many Westerners, the Chinese government appears ultimately untrustworthy on all issues because it is undemocratic. To [Beijing](#), Western human rights pressure seems designed to compromise its legitimacy, and this threat hangs

rights norms is well documented. Herein lies the problem – Beijing may not be much better than the regimes it is expected to correct.⁷⁶ As Gaurav Bhola puts it: “[T]he responsible comity of nations cannot expect China, a communist, military-led oppressive regime to be a responsible actor in Africa or internationally; Beijing has no experience in good governance, value of human rights, principles, respect for rule of law, property rights ...”⁷⁷ He goes on to add that “[g]aining valuable experience these areas based upon a solid foundation of democratic principles is necessary before China can be counted upon to be a possible actor with any degree of legitimacy at the world stage.”⁷⁸ Overall, given its own internal problem, Beijing may want to avoid being labelled a hypocrite for openly criticizing regimes in Africa with questionable human rights records. Beijing may also want to avoid opening the door for human rights activism internally.⁷⁹

4.3.2 China's Political Ambitions

China's political ambition in global affairs is a major obstacle to any effort to get Beijing to integrate human rights into its foreign policy. China cannot afford to antagonize states in Africa as such a move could undercut China's effort at leadership on the global stage. Unlike United States, China needs African allies in the United Nations to advance its political goals, including preventing Taiwan independence and diverting attention from its own human rights record.

4.3.3 China's National Interest

In the final analysis, China's economic and security interests may trump human rights considerations. According to Breffni O'Rourke “China has never been known for shying away from business on grounds of human-rights abuses. Its policy has always been to ignore blemishes in a foreign country's record book, and it similarly expects not to be questioned on its own rights performance.”⁸⁰ In this regard, China is not alone. Matthew Forney writes in Times Magazine that “just as oil is seen driving American foreign policy, so too are China's geopolitical strategies increasingly influenced by the country's inability to meet its energy needs solely through domestic production.”⁸¹

5. Integrating Human Rights into China's Africa Policy The Development Paradigm

It is unlikely that China will integrate human rights into its Africa policy anytime soon. This is particularly so if human rights are read to mean the norms endorsed by the West and pushed through the framework of the United Nations. Yet, while China may a position to actively promote respect for human rights in Africa, at the very least it can refrain from undermining human rights initiatives in the continent. At a minimum, China should strive to play a constructive role in the renaissance of Africa, not undermine it. In short, China can promote purposeful, people-centered, sustainable development in Africa. The starting point is an understanding of what development means in the African and a critical evaluation of China's Africa policy through the framework of sustainable development. What is needed is a comprehensive strategy for China-Africa relations – a strategy that addresses the right to development comprehensively and holistically. While the term “human rights” is loaded and invokes much hostility, the concept of a “right to development”, although also controversial, is favoured by China and countries in Africa. The term “development” also features very strongly in China's Africa policy. Two questions need to be asked. What does development mean in the context of China-Africa relations? Is China's presence in Africa actually promoting development or propping up dictators?

over what might otherwise be considered "normal" disputes on issues like trade and arms sales Wang, M. and others, HUMAN RIGHTS IN CHINESE FOREIGN RELATIONS: DEFINING AND DEFENDING NATIONAL INTERESTS ((2001).

⁷⁶ Ian Taylor, *China and Africa: The Real Barriers to a Win-Win*, FOREIGN POLICY IN FOCUS, March 9, 2007. http://www.fpif.org/fpiftxt/4067#_edn1 (noting that “[t]here is a great deal of convergence between Chinese rhetoric on human rights and democracy and much African practice.”).

⁷⁷ Gaurav Bhola, “China and India Battle for Influence in Africa: Part 4,” October 15, 2007, available at: <http://www.gimmiethescoop.com/china-and-india-battle-for-influence-in-africa-part-4>

⁷⁸ *Id.*

⁷⁹ China's domestic “problems” include, the real potential for instability caused by economic inequality, challenges from ethnic minority groups, the rise in religious belief in the country, and the possibility of a secular political uprising led by an assortment of pro-democracy, pro-human rights, and anti-corruption forces. See Jacqueline Newmyer, “Comment: Domestic Instability and Chinese Foreign Policy,” *Yale Law School Opening Argument: Will China Face Civil War*, February 2007, available at: <http://www.openingargument.com/index.php?name=Home&file=article&did=111>

⁸⁰ “China: Africa Trade Offensive Part Of Global Expansion, Wednesday,” January 18, 2006, available at: <http://www.rferl.org/featuresarticle/2006/01/1D874EF7-9CFC-4E46-A3BD-769D4EB443F2.html>

⁸¹ Matthew Forney, “China's Quest for Oil,” *TIME*, October 8, 2004. http://www.time.com/time/magazine/article/0,9171,50104_25-725174,00.html

5.1 Development: Chinese Style

Does development mean prestige projects such as fancy government houses for dictators, conference centers for corrupt leaders and sports stadiums for starving masses or does it mean people-centered, pro-poor, sustainable development? Is development possible in a climate of massive corruption and without purposeful leadership from the best governing class? The Chinese discourse on human rights prioritizes the right to food, clothing, shelter, and economic development – goals desperately needed in Africa today.⁸² At the very least, therefore, China should support measures and institutions that are more likely to be supportive of development. Conversely, China must consider withdrawing support from leaders whose policies and practices clearly undermine development. Ian Taylor asks: “[W]hat if Chinese diplomacy and activities in engaging with certain African regimes not only clashes with the advancement of universal (i.e. Western) norms of human rights but actually helps to further undermine development, ostensibly essential to Beijing’s own definition of human rights?” He notes that “[e]ven if we accept China’s alternative readings, Beijing’s diplomacy in Africa may in fact help to consolidate governments that, as explained above, actively obstruct development because it threatens elites.”

Undoubtedly, China can promote positive development in Africa drawing from its own history and experience. Kishore Mahbubani has argued that over the years the Chinese Communist Party undergone substantial transformation. He notes that “[a]fter more than a century of misrule, China is now run by the best governing class in generations. Gone are the aging commissars clinging to party rule; they have been replaced by leaders committed to moving the country forward.” Therein lies the difference between China and Africa. Unlike China’s political class of today who by and large has entered itself and retained a measure of political legitimacy, African leaders by and large lack legitimacy. Unlike the CCP which appears to have a sense of purpose and direction in terms of future directions for Chinese development, African leaders appear to lack any sense of purpose and direction. While China’s new, sophisticated elite has been able to deliver change, reform and economic well-being, African leaders presently do not appear to have the same interest. A win-win relationship demands that at the very least China withdraws supports institutions and persons in Africa that undermine development.

5.2 Development as Human Rights

China’s inroad into Africa should not be readily dismissed. From a human rights standpoint, growing Sino-African relations can be a positive force for change in the continent. By opening Chinese market to African export, Beijing arguably can make enormous contribution to human development. In theory, China’s eight-point proposal can indirectly advance human rights in Africa. Khalid Malik, the UN resident coordinator in China and resident representative of the UN Development Program (UNDP) in the country has observed that China’s involvement in Africa will help reduce poverty and promote investment in the continent.⁸³

5.2.1 The Right to Development

Development is not a concept devoid of meaning in international policy circles. Today, there are objective indicators of whether a country is developing or not. It is also increasing consensus that development, to have meaning, must be people-centered rather than centered on the elites. With the United States voting against, and Britain, Germany, France, Italy, Canada, Australia, Denmark, Norway and Sweden abstaining, the UN General Assembly in 1998 voted to reaffirm the right to development as an integral part of human rights. The right to development is also embedded in the UN Charter, the Universal Declaration on Human Rights and the two international human rights covenants.⁸⁴ One of the goals of the UN Charter is to “promote social progress and better standards of life in larger freedom.”

Human beings and groups are at the very center of the right to development. Moreover, the right to development imposes specific obligations on states. According to the UN Declaration on the Right to Development (“Declaration”), “[t]he human person is the central subject of development and should be the active participant and beneficiary of the right to development.” At the very minimum, the right includes: popular participation in development, equality of opportunity and the creation of favourable conditions for the enjoyment of other civil, political, economic, social and cultural rights. Article 2 of the Declaration states that “[a]ll human beings have a responsibility for development, individually and collectively, taking into account the need for full respect for their human rights and fundamental freedoms as well as their duties to the community ... and they

⁸² Ian Taylor, *China and Africa: the Real Barriers to Win-Win*, FPIF COMMENTARY, March 9, 2007. Available at: <http://www.fpif.org/fpiftxt/4067>

⁸³ Available at <http://www.china.org.cn/english/international/153400.htm>.

⁸⁴ Available at www.unhcr.ch/development/right-01.html.

should therefore promote and protect an appropriate political, social and economic order for development.”⁸⁵ While States have the right to and the duty to formulate appropriate national development policies, this must be done “on the basis of their active, free and meaningful participation in development and in the fair distribution of the benefits resulting there from.”⁸⁶

How might the concept of the right to development affect China’s Africa policy were it to be taken seriously? To start with, it is hard to imagine how propping up dictators or arming repressive states with arms to be used to destroy their people help to promote a win-win development in Africa. Moreover, China’s policy of non-interference may not square well with Beijing’s declared intention of promoting Africa’s development. As Ian Taylor rightly notes,

“[a]ccording to China’s non-interference policy, sovereignty trumps everything and so it is up to each country to decide what to do with Beijing’s assistance. But if sovereignty is the guarantor of human rights and that sovereignty is being used to effectively undermine developmentalism, then there is a profound contradiction at the heart of China’s discourse on human rights. Surely in such cases China is complicit in not only siding with autocrats and undermining a nascent human rights regime (one now supported by a number of African states). It is also undermining its own conception of human rights based on development, as well as its own interpretation of the linkage between human rights and sovereignty.”⁸⁷

6. Towards a New Foreign Policy

There are legal basis for suggesting the right to development as a framework for China’s Africa policy. As a member of the United Nations, China has undertaken to “fulfil in good faith” the obligations assumed by it in accordance with the UN Charter.⁸⁸ Among the obligations assumed by China and other Member States, is the obligation to support and promote the purposes of the United Nations. One of the main purposes of the United Nations expressly stated in the Charter is the goal of achieving international co-operation “in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.”

The International Covenant on Economic, Social and Cultural Rights (ICESCR) also provides a basis for integrating the right to development into China’s Africa policy. The Chinese government signed ICESCR in October 1997 and ratified it on March 27, 2001.⁸⁹ Ratification of the ICESCR, according to the Chinese government, “fully demonstrates the Chinese Government’s positive attitude toward carrying out international cooperation in human rights as well as China’s firm determination and confidence in promoting and protecting human rights.”⁹⁰ Among the rights endorsed in the ICESCR are the right to health, the right to education, the right to self-determination and a right to adequate standard of living.

Within the context of past Asia-Africa conferences, the Declaration on the New Asian African Strategic Partnership (“2005 NAASP Declaration”) adopted in Bandung, on 23 April 2005 is important. In the 2005 NAASP Declaration, attending Heads of States and Governments including China’s President noted that all the participants were “independent, sovereign and equal nations striving for the promotion of human rights, democracy and the rule of law.” The 2005 NAASP Declaration also underscored “the urgency of promoting economic development in the Asian and African regions.” The leaders envisaged “a caring Asian-African society where the people live in stability, prosperity, dignity and free from the fear of violence, oppression and injustice.” China’s Africa policy can be measured against these development objectives.

In sum, the concept of development is a useful one for evaluating China’s policy in Africa. Every developing country, including China, voted in favour of UN General Assembly resolution affirming the right to development. The concept of development also features prominently in China’s Africa policy. Development is also the principle objective of the New Partnership for Africa’s Development (NEPAD), an initiative that Beijing claims to unequivocally support.⁹¹ Introducing the concept of the right to development into China’s Africa policy

⁸⁵ Article 2(2), United Nations Declaration on the Right to Development.

⁸⁶ *Id.*, Article 2(3).

⁸⁷ Taylor, *supra* note 82.

⁸⁸ United Nations Charter, Article 2(2).

⁸⁹ The PRC government passed legislation ratifying the Covenant on 28 February 2001. However, the ratification document was not deposited with the United Nations until 27 March 2001.

⁹⁰ Information Office of the State Council, Progress in China’s Human Rights Cause 2000, released on 9 April 2001. Available from: <http://english.peopledaily.com.cn/whitepaper/home.html>

⁹¹ NEPAD is a vision and strategic framework for Africa’s renewal. See <http://www.nepad.org/2005/files/inbrief.php>

means asking the development questions: Would Beijing's uncritical support for African tyrants advance people-centered development or spell disaster for the ordinary people in the continent?

7. Chinese Vessel, MV An Yue Jiang: Lessons Learned

The saga of Chinese vessel, MV An Yue Jiang is very telling.⁹² Initially, a South African government spokesman, while confirming that the weapons were aboard the ship on South Africa's waters, told reporters that the government would not interfere with what it regarded as a trade matter between China and Zimbabwe. China's Foreign Ministry also issued a statement saying: "China and Zimbabwe maintain normal trade relations. What we want to stress is China has always had a prudent and responsible attitude towards arms sales, and one of the most important principles is not to interfere in the internal affairs of other countries." Yet, unable to dock and unload its cargo in South Africa, Angola, Mozambique or any other country, the Chinese vessel eventually headed home. The turn around was as a result of several factors. First, it was the praise-worthy effort of civil society groups in Africa including the South African Litigation Centre (SALC). The SALC brought an urgent application in court to halt offloading and transport of the arms bound for Zimbabwe. Dock workers in South Africa and neighboring countries also openly declared their unwillingness to unload the weapons. Second, the media coverage was unrelenting and put the spotlight on China. Third, there was an apparent regional consensus that shipping arms to Zimbabwe at a critical time in the country's history was not in the best interest of Zimbabwe or the South African region. Fourth, the diplomatic efforts from Washington and London put pressure on neighbouring states to deny docking privilege to the Chinese vessel.

There are several lessons that may be learned here. First, any change in China's Africa policy will depend, in part, on the capability of non governmental organizations to provide timely and accurate information regarding issues and areas of concern. Second, change in China's Africa policy will also depend on direct and indirect diplomatic pressure from other world leaders.⁹³ Third, regional consensus from African leaders and from the African civil society on what Africa needs and what is in the best interest of the continent will also send a message to Beijing that the tide is turning in Africa and that Africans will no longer accept policies and practices that ultimately work to their own detriment. Regarding MV An Yue Jiang, governments of neighbouring countries individually and collectively declared their displeasure at the arms shipment. The Zambian president, currently chairman of the SADC, reportedly called on Zimbabwe's neighbors to unite to stop the delivery of the ammunition to Zimbabwe, saying the arms could deepen the crisis. He was also quoted in the government-owned Zambia Daily Mail, as saying that China could play a more useful role than supplying arms.⁹⁴

8. Africa's Development and China's National Interest

Supporting people-centered, participatory development initiatives in Africa is in China's interest. The growing number of civil society organizations in the continent and the increase in communication technologies in the region mean that unlike in the past, blunders by Africa's trading partners in cooperation with morally-bankrupt African leaders will no longer be tolerated and can become public knowledge in a matter of seconds. Given its effort to promote a benign image of China abroad, Beijing may not afford smear campaigns elsewhere in the world. Supporting people-centered development initiatives in Africa may also be the only way that Beijing can ensure predictable access to Africa's energy resources in the future. Internal conflict over oil could completely undermine Chinese investment in oil exploration and production or, at the very least, make such investments less than lucrative. While African policy makers are still dazzled by Beijing's courtship, a conviction is growing among Africa's civil society that trade with China is not necessarily in Africa's best interest. China must not exacerbate growing civil society mistrust of its real presence in Africa. A win-win China-Africa relation is one that benefits China but also brings about a change in the lives of ordinary Africans presently deprived of their basic humanity as a result of poverty, systemic corruption, internecine warfare, and oppression.

⁹² There is evidence that the point of origin on the cargo manifest is Beijing, China. The ship's owner was the parastatal Chinese Ocean Shipping Company. The shipper of the arms was Poly Technologies Inc of Beijing China and the delivery address on the shipping documents was the Zimbabwe Defence Force, Harare. Amnesty International, Zimbabwe: No Supply of Arms Until State Sponsored Violence Ceases, 23 April 2008, available at: <http://www.amnesty.org/en/for-media/press-releases/zimbabwe-no-supply-arms>

⁹³ Zimbabwe's situation was somewhat unique. Britain has historical ties to Zimbabwe and London appears to be locked in a battle with Harare. Will London apply the same pressure to address human rights situation in other countries in Africa? Ultimately, inconsistencies in the human rights policies of London and Washington could prove a major obstacle to any effort to change China's record in Africa.

⁹⁴ The Guardian, China arms ship left with no port of call as Britain and US apply pressure, Wednesday April 23 2008, <http://www.guardian.co.uk/world/2008/apr/23/zimbabwe.china>

9. Conclusion

As the volume of trade and investment between China and Africa soars, Beijing must increasingly confront vexing ethical questions about China's role in the continent. Whether China-Africa relations will benefit ordinary Africans or undermine human rights and development gains in the continent will depend as much on the evolution of China's Africa policy as by the measures taken by the leadership in Africa to safeguard the interest of the continent. Although Africans have always condemned colonialism in the nineteenth century by the European powers, history may be about to repeat itself because African leaders, mesmerized by Beijing's courtship and bent on satisfying their narrow selfish interests, are unwilling to ensure a beneficial outcome for the continent in the unfolding relationship. Thus, "[w]hile China has, through various initiatives and offers, generated hope about the future prospects of the people of Africa, African leaders are yet to come out with clear-cut proposals on how to reap the maximum benefit out of these Chinese initiatives."⁹⁵

Ultimately, Richardson is right in her assertion that "Africans do not need another external power enabling abusive regimes – they need all powers, including China, to place human rights at the center of their policies." The concept of the right to development is not free from controversy. The concept of development can pit individuals against the state and groups against one another. Nevertheless, the concept is arguably less polarizing than the concept of human rights. As between China and states in Africa, there is a consensus that the right should be recognized as a fundamental legal right. The time has come for China and leaders in Africa to move from rhetoric to action and give life to the right to development. Africans do not need China to enable abusive and corrupt regimes in the continent. Rather, Africans need China to put human beings at the center of its Africa policy. China should strive to promote development programs that are empowering, participatory, beneficial and sustainable. Although there appears to be a gradual shift in China's policy of non-interference, Beijing must do more, however. Doing more means that when quiet diplomacy proves ineffective, Beijing must be willing to withdraw support from regimes that destroy the dignity and worth of their citizens. Doing more means asking the development question at all times and in every situation. A development framework does not undermine the notion of sovereignty because ultimately it is the African people – the ordinary men, women and children in the continent – not Washington, London, Beijing, Pretoria or Abuja – that will determine if the win-win co-operation that China is preaching is a farce or a reality.

⁹⁵ Dr. Nivedita Ray, "While China Scrambles Africa Builds Hope," IDSA Strategic Comments, November 9, 2006, available at: <http://www.idsa.in/publications/stratcomments/NiveditaRay091106.htm>