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CHINA – TRADE OR HUMAN RIGHTS: WHICH COMES FIRST?

THE CANADIAN MODEL

Amos N. Guiora[†] and Samuel S. Riotte^{††}

I. General Overview

The question of whether trade and human rights are naturally at odds has been the subject of numerous articles, commentary, political discussion and debate.¹ The issue was much discussed in 1974 when Senator Henry “Scoop” Jackson (D-Wash) and Congressman Charles Vanik (R-Ohio) introduced the so-called “Jackson-Vanik” Amendment, which denied normal trade relations to countries with non-market economies and emigration restrictions. More specifically, it addressed then Soviet Premier Leonid Brezhnev’s implementation of a tax that effectively prevented individuals studying in the USSR from emigrating, even if it prevented them from returning to their families.

The legislation’s significance was clear: the human rights policies of a potential trading partner may dictate the extent to which trade will occur. But such policies are not always affected through legislation. The recent “globalization” of the international community has resulted in more nations making policy statements intended to cajole other states into improving their human rights stance. Canada’s recent dealings with China highlight just such a policy.

On November 15, 2006, the Canadian Prime Minister, Right Honourable Stephen Harper, made comments regarding Canadian trade with China that became the subject of much discussion. Speaking to reporters about the two

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* Remarks occurred at an event entitled The Economic Challenges of China: US & Canadian Responses, held on December 8 2006, and sponsored by Steptoe & Johnson, LLP and Kaye Scholer.

¹ See Dinah Shelton, *Protecting Human Rights in a Globalized World*, 25 B.C. INT’L & COMP. L. REV. 273 (2002); Amy J. McMaster, *Human Rights at the Crossroads: When East Meets West*, 29 VT. L. REV. 109 (2004); Frank J. Garcia, *The Global Market and Human Rights: Trading Away the Human Rights Principle*, 25 BROOK. J. INT’L L. 51 (1999); see also Human Rights in China, Statement of the WTO-Human Rights Caucus (Dec. 14, 2005), <http://www.hrichina.org/public/contents/article?revision%5fid=26420&item%5fid=26396>.

countries' relationship while en-route to the Asia-Pacific Economic Co-Operation Conference in Hanoi, Harper said, "I think Canadians want us to promote our trade relations worldwide, and we do that, but I don't think Canadians want us to sell out important Canadian values – our belief in democracy, freedom, human rights...they don't want us to sell that out to the almighty dollar..."² The Prime Minister's comments drew an immediate response both supporting and attacking the policy. Comments critical of the stance focused on two points: that it would negatively affect Canadian business interests and that Canada was interfering in internal Chinese politics. Favorable comments perceived the Prime Minister's stance as principled – he refused to make financial interests paramount to the rights of individuals.

The Prime Minister's comments, however, were not a complete surprise. Canada has been involved in bilateral human rights discussions with China since 1997, and in 1990, Canada sponsored the first resolution addressing the status of human rights in China submitted to the United Nations Commission on Human Rights.³

China initially responded to Prime Minister Harper's comments by canceling proposed talks between the Prime Minister and China's president, Hu Jintao, as the Chinese felt that Canada had made "irresponsible remarks about internal affairs."⁴ Although the talks were later rescheduled, it was clear that the Chinese were not pleased with Prime Minister Harper's comments. Some observed that, "The Chinese have sent a very strong message to Canada – that they're not very happy with the way the Tory government has shown its support for the Dalai Lama and taken a stand on human rights in China."⁵

In the months that followed, the relationship between Canada and China cooled. Though both nations indicated a desire to engage in dialogue they expressed concerns over each other's conduct. In late January 2007, Canada initiated what many viewed as a "softer" approach to China in the hopes of reinvigorating their relationship.⁶ Commentators suggested that both parties

² Officials: Harper may discuss human rights at APEC, CTV.ca News (Nov. 16, 2006), http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20061116/apec_politics_061116?s_na me=&no_ads [hereinafter Officials: Harper].

³ Bilateral Human Rights Dialogue with China, Rights and Democracy (Jan. 2001), <http://www.dd-rd.ca/site/publications/index.php?lang=en&subsection=catalogue&id=1290& page=3>.

⁴ Officials: Harper, *supra* note 2.

⁵ *Id.*

⁶ Michel Cormier, *Canada's new 'China strategy'*, CBC News (Jan. 24, 2007), <http://www.cbc.ca/news/reportsfromabroad/cormier/20070124.html>.

expressed an interest in engaging in economic relations described as “cold on the political side and warm economically.”⁷

The ensuing talks, however, seem to have achieved little. In early February, China made what Canadians perceived as economic threats intended to prevent Canada from pursuing its human rights agenda. Prime Minister Harper responded by “reminding” China that Canada is the one with the leverage; that is, Canada chooses whether to buy Chinese goods and, in addition, Canada possesses oil China desires.

In determining to affect domestic policy of a sovereign nation, an “activist” nation invites international and domestic criticism alike, the former with respect to intervening in the domestic affairs of another sovereign, the latter raising concerns regarding economic damage at home. Prime Minister Harper has staked a clear position – whether this will be established and lead to an economic backlash will be determined. Nevertheless, in direct contrast to nations who turn either a “blind eye” or adopt a policy best described as a “wink and a nod,” the Canadian Prime Minister has articulated an unequivocal position directly linking future trade between the two nations to China’s domestic human rights policy.

A. *The Status of Human Rights in China*

In examining the link between the two issues, it is important to both describe and explain China’s human rights policy and practices. After the Tiananmen Square massacre in 1989, human rights in China became a concern of many nations of the world. While conventional wisdom holds that human rights conditions improved dramatically in the aftermath of the massacre, recent reports suggest that recently they have taken a turn for the worse.⁸ Chinese legislation expected to reform hot-button issues, including property ownership laws, the death penalty, and procedural rights, have lost momentum or been shelved altogether.⁹ Although civil rights movements are found within China,¹⁰ they are small, largely underground, and their survival is constantly threatened by government suppression and “in-house” conflict regarding how best to effectuate the desired changes.¹¹ The government has

⁷ Theophilos Argitis, *Canada Seeks New Chinese Investments in Oil Fields*, China Institute (Jan. 16, 2007), <http://www.uofaweb.ualberta.ca/chinainstitute/news.cfm?story=55218>.

⁸ See HUMAN RIGHTS WATCH, *WORLD REPORT 2007: EVENTS OF 2006*, 258 (2007).

⁹ *Id.*

¹⁰ The most successful of these, known as the “Weiquan Movement,” consists of a loosely organized group of lawyers, academics, and journalists who pursue social justice through litigation. Chinese authorities have targeted these individuals and many have been arrested on charges including “inciting subversion” and “illegal business activities.”

¹¹ Joseph Kahn, *Legal rivals seek to widen freedoms in China*, INT’L HERALD TRIB., Feb.

stepped up its restraint of individuals it perceives to be critical of its domestic policies. Measures to implement restraint on individuals suspected of political activism include incommunicado detention, electronic and physical surveillance, and restriction on domestic and international travel.¹² Frequently the government's efforts to silence its critics occur without arrest, thereby avoiding the unwanted international spotlight arrests can bring. Nevertheless, when arrests do occur, they are frequently the result of vague or ill-defined crimes.¹³

China cites a recent constitutional amendment guaranteeing human rights and private property ownership as indicative of the improving status of human rights within the country.¹⁴ Furthermore, China is a signatory to numerous international human rights treaties. However, Human Rights Watch speaks for many when it suggests that China "remains a one-party state that does not hold national elections, has no independent judiciary, leads the world in executions, aggressively censors the Internet, bans independent trade unions, and represses minorities such as the Tibetans, Uighurs, and Mongolians."¹⁵ Finally, attempts by international governments and non-governmental organizations to approach the Chinese government regarding these issues are frequently rejected due to China's perspective on sovereignty in the context of international relations.

B. *Sovereignty*

The concept of sovereignty defies a single universal definition. At the most general level, sovereignty refers to a political institution's supreme authority over a territory.¹⁶ The history of international law reveals that the concepts of human rights and sovereignty were frequently at odds.¹⁷ Recently, however, a modern conception of sovereignty and human rights has developed which maintains that the two principles have coalesced. As one commentator argues, "The State that claims sovereignty deserves respect only as long as it protects the basic rights of its subjects. It is from their rights that it derives its own. When it violates them... the State's claim to full

24, 2007, <http://www.iht.com/articles/2007/02/24/africa/web-0225china.php?page=1>.

¹² HUMAN RIGHTS WATCH, *WORLD REPORT*, *supra* note 8, at 258.

¹³ *Id.*

¹⁴ Philip P. Pan, *Chinese Leaders Speak of Reform, But How Quickly?*, WASH. POST, Mar. 14, 2004, at A19.

¹⁵ HUMAN RIGHTS WATCH, *COUNTRY SUMMARY: CHINA*, 1 (2006).

¹⁶ Stanford Encyclopedia of Philosophy, *Sovereignty* (June 18, 2003), <http://plato.stanford.edu/entries/sovereignty/>.

¹⁷ Vesselin Popovski, *Sovereignty as Duty to Protect Human Rights*, UN CHRON. ONLINE EDITION, <http://www.un.org/Pubs/chronicle/2004/issue4/0404p16.html> (last visited Mar. 19, 2008).

sovereignty falls with it.”¹⁸ The effect adopting such a definition has on China’s claim of sovereignty is clear.

One of the issues this article seeks to address is whether one nation’s attempt to shape another nation’s domestic policy violates that state’s sovereignty. By directly correlating future Canadian-Chinese trade relations to China’s human rights policy, Prime Minister Harper has *seemingly* attempted to interfere in Chinese domestic affairs. After all, the targets of Canada’s policy (and “victims” of China’s human rights policy) are exclusively Chinese nationals, not entitled to Canadian rights, guarantees, or obligations.

While Prime Minister Harper’s statements regarding the human rights practices of China may be remarkable for their frankness, the Chinese have become accustomed to such criticism. China’s response to Harper, invoking sovereignty, is representative of responses to previous, similar overtures by other countries. China rejects modern conceptions of sovereignty and human rights.¹⁹ Although China has acceded to over seventeen UN-sponsored human rights conventions,²⁰ it fails to recognize that the rights they contain trump its sovereignty. According to one international law professor in China, “Each country has the right to choose its own human rights development model without interference from outside. To protect human rights is mainly to prevent foreign invasion or occupation, racial discrimination and international terrorist activities.”²¹ As a result of this perspective, past attempts to influence Chinese human rights have largely failed. China maintains that they meet the international requirements and additionally admonish those who attempt influence by maintaining that their overtures violate China’s sovereignty.

C. International Trade

Trade relationships are premised on a basic “give and take” between partners – sometimes equal, other times not. An examination of China’s

¹⁸ See Stanley Hoffman, *The Politics and Ethics of Military Intervention*, 27 SURVIVAL 29 (1995).

¹⁹ See *China’s View of Sovereignty Significantly Different*, China Policy Institute International Conference on “*China in the International Order: Integrating Views from Outside-In and Inside-Out*” The University of Nottingham (September 2006), available at http://www.nottingham.ac.uk/china-policy-institute/events/China_in_the_International_Order_Conference_Sep_2006.php.

²⁰ Relations Between China and The UN Human Rights Mechanism, Permanent Mission of the People’s Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland, <http://www.fmprc.gov.cn/ce/cegv/eng/rqrd/jblc/t85088.htm> (last visited Mar. 19, 2008).

²¹ *Are human rights higher than sovereignty?* PEOPLE’S DAILY ONLINE, Mar. 17, 2006, http://english.people.com.cn/200603/17/eng20060317_251529.html.

economy suggests the following: in order to maintain the phenomenal growth of the past three decades,²² China is heavily dependent on crude oil. While China's presence in the Middle East has existed for some time,²³ only recently has it had to engage in relationships with additional countries to meet its oil needs.²⁴ In 1992, China produced enough oil to completely satisfy its domestic needs. Fifteen years later, China is notorious for its ceaseless search for oil in every corner of the world and its willingness to work with any government to satisfy the need.²⁵ China's dependence on imported oil is absolute; to meet it China has agreements with numerous countries allowing China access to their oil.²⁶ In many cases these agreements are with regimes that promote sub-standard human rights laws in areas rife with security concerns, including Sudan, Nigeria, and Iran.²⁷ Additionally, in 2005, construction of an oil pipeline from the Caspian Shelf in Kazakhstan to western China began.²⁸ The pipeline ends in Xinjiang, an autonomous region in western China. Nearly half of the region's people are Uighur,²⁹ a Muslim population frequently accused of terrorism by the Chinese government.

While these are all of great importance to the Chinese, an additional significant source of oil for them is the Alberta oil patch in Alberta, Canada.³⁰ The patch's fossil fuels are in the form of oil sands, as opposed to

²² The average annual growth rate of China's GDP has reached nearly 10% over the last 25 years. Furthermore, based on China's official poverty line, the poverty rate in China dropped from 33% in 1978 to less than 3% in 2004. See JIKUN HUANG, JUN YANG, & SCOTT ROZELLE, CHINA'S RAPID ECONOMIC GROWTH AND ITS IMPLICATIONS FOR AGRICULTURE AND FOOD SECURITY IN CHINA AND THE REST OF THE WORLD, <http://www.fao.org/docrep/009/ag088e/AG088E03.htm> (last visited March 3, 2007).

²³ China and Saddam Hussein's Iraq sought the right to develop Iraq's oil patch together though UN sanctions against Iraq prevented realization of this goal. See Peter S. Goodman, *Big Shift in China's Oil Policy*, WASH. POST, July 13, 2005, at D01.

²⁴ *China Needs More Oil*, PEOPLE'S DAILY, July, 5, 2000, http://english.people.com.cn/english/200007/05/eng20000705_44761.html.

²⁵ William Mellor and Le-Min Lim, *China Drills Where Others Dare Not Seek Oil*, INT'L HERALD TRIB., Oct. 2, 2006, <http://www.iht.com/articles/2006/10/01/bloomberg/bxchioil.php>.

²⁶ These areas include central Asia, Latin America, South America, and Africa. See Robert Collier, *China on Global Hunt to Quench its Thirst for Oil*, SAN FRANCISCO CHRON., June 26, 2005, <http://www.sfgate.com/cgi-bin/article.cgi?file=/c/a/2005/06/26/MNG27DF8HQ1.DTL>.

²⁷ Matthew Forney, *China's Quest for Oil*, TIME, Oct. 18, 2004, <http://www.time.com/time/magazine/article/0,9171,501041025-725174,00.html>.

²⁸ *China Starts Work on Kazakhstan-China Oil Pipeline*, PEOPLE'S DAILY ONLINE, Mar. 25, 2005, http://english.people.com.cn/200503/25/eng20050325_178162.html.

²⁹ Xinjiang Uygur Autonomous Region, People's Daily, <http://english.peopledaily.com.cn/data/province/xinjiang.html> (last visited Mar. 19, 2008).

³⁰ See, Simon Romero, *China Emerging as a U.S. Rival for Canada's Oil*, N.Y. TIMES, Dec. 23, 2004, <http://www.nytimes.com/2004/12/23/business/worldbusiness/23canada.html?pagewanted=1&ei=5088&en=bec439e3e7482281&ex=1261458000&partner=rssnyt>.

traditional crude oil, and this makes extracting oil more expensive. But the recent surge in oil prices has made the deposit, projected to be the second largest source of oil in the world behind Saudi Arabia, a coveted source of energy. Many believe it is capable of satisfying much of the world's energy needs for the next century. Not only has China expressed interest and invested in the oil patch, it appears that one of the major oil sands developers will use Chinese technology to extract crude from the sands.³¹

Prime Minister Harper's position takes on enormous significance when understood in the larger context of China's oil requirements. Linking human rights violations to trade may potentially impact China's ability to procure this additional oil. However, Canada's strength is predicated on China's inability to develop sufficient oil sources elsewhere. As one prominent Canadian business leader commented, "if the Chinese find sufficient oil elsewhere, they'll drop us [Canada] immediately and take 'their ball' elsewhere."³² With China's numerous and expanding interests in the international oil market, the issue becomes whether Canada has the requisite leverage to influence human rights in China.

II. Analysis

Circumstances such as those outlined above bring to the forefront questions regarding a nation's right to influence – some would say interfere with – another nation's domestic policy. This issue requires analyzing the limits and extent of sovereignty and will be discussed in section A below. An analysis of whether Canada's policy is effective and the criteria for determining such effectiveness will be discussed in section B. Furthermore, as the discussion cannot and does not take place in a political vacuum, an examination of factors that determine a nation's domestic and foreign relations is inherent to the analysis; this will be the focus of section C. Finally, in examining the issue from an integrative perspective, one of the fundamental questions is what external factors affect the human rights-trade relationship; this issue will be the focus of section D. The conclusion will present recommendations regarding the articulation and implementation of a policy, based on law that enables – or seeks to enable – a sovereign to interfere in the domestic affairs of another sovereign.

³¹ See Andrew Leonard, *Canada's Oil Sands Industry: Made in China?*, http://www.salon.com/tech/htww/2006/12/07/china_oil_patch/index.html (last visited March 30, 2008).

³² Private conversation with one of the authors.

A. *Limits and Extent of Sovereignty*

The first issue to address is whether Canada's policy potentially infringes on China's sovereignty. The sovereignty analysis can best be summarized as follows: though Canada has not engaged in an "armed attack,"³³ the Prime Minister directly sought to both influence Chinese internal politics and tacitly threatened to deprive China of a much needed resource. While Harper's policy would seem to suggest interference in Chinese sovereignty, unlike armed interference, the Chinese are free to ignore Canada's policy. Since many propose that sovereignty is simply the ability to make a choice free of coercion,³⁴ and China is free to choose to trade with Canada, then Canada has not infringed on Chinese sovereignty.

But China responded to Harper's comments by arguing that Canada violated its sovereignty. Such a response is problematic for a number of reasons, the least of which is that Canada has taken no concrete steps regarding the effects China's human rights standards will have on its relationship with Canada. At this point there are no circumstances that make such statements coercive. Rather, Prime Minister Harper simply made a public statement he believed represents a common concern of Canadian citizens, namely a desire to protect human rights. At this point, no legislation has been passed that would limit Canadian involvement with China at any level. Absent any concrete act that mandates China alter its behavior, China's response seems premature and reactionary. It certainly cannot claim that Harper's opinion in and of itself violates its sovereignty. But the question remains: at what point could Harper's comments represent an infringement on China's sovereign right to conduct its internal affairs as it sees fit?

The question becomes more interesting in the event that Canada proposes and passes legislation that does curtail its relationship with China. For example, Canada may decide to pass legislation that makes the extent of its trade with China dependant on China improving its human rights practices. Presently, Canada maintains a substantial trade deficit with China; simply put, this means Canada spends more money on Chinese goods than China spends on Canadian goods. Thus, any Canadian law predicating its trade with China on Chinese human rights practices would, at a most basic level, limit the amount of Chinese goods entering Canada. While this would likely affect the daily lives of millions of Canadians, the question of whether this would have any measurable affect on China's economy is less clear.

China has indicated that its trade relationship with Canada leaves something to be desired. China recently implied that Canada is lagging

³³ U.N. Charter art. 51.

³⁴ See Jack Donnelly, *State Sovereignty and Human Rights*, <http://www.du.edu/~jdonnell/papers/hrsov%20v4a.htm> (last visited Mar. 19, 2008).

behind other nations with regard to its trade relationship with China, meaning that China may further limit or suspend trade with Canada unless Canada actively engages in behaviors demonstrating to China its desire to continue trading. While these statements are likely nothing more than a Chinese attempt to induce Canada to increase its trade with China, if they are true, it means that Canada need not threaten to reduce trade with China over its human rights standards, for maintaining the status quo in its relationship will have the same result. Statements such as Harper's may only speed the decline. Thus, it appears that China, too, makes efforts to shape the trade policies of other nations.

The effect such legislation would have on China's ability to invest in and secure rights to Canada's oil sands also merits discussion. Assuming that there is as much crude oil in Alberta as projected, it will surely become an integral source for satisfying numerous countries' energy needs. If Canada does pass legislation limiting China's access to Canadian oil without substantial change in China's human rights policies, China will have little choice but to submit to Canada's demands. Furthermore, China's recent decisions to invest in regions of the world that are frequently subject to political instability increases the possibility that present sources of Chinese oil may, in the future, no longer be available. Thus, it would appear that in the world of securing energy, Canada might have a large and irresistible carrot to dangle in front of China. Would Canada's demands in this context rise to the level of sovereignty violations?

B. Policy Effectiveness

In examining policy effectiveness, it is essential to initially define "effectiveness." Foreign relations often reflect a composition of a nation's perspective in the areas of geo-politics, philosophy, and real politic. Those relations manifest themselves through words and deeds alike, though non-action is as significant as action. Analyzing a nation's foreign policy also requires an appreciation for domestic realities and limits. Furthermore, it is important to discern the intended audience of a particular policy. Henry Kissinger, as described in Jim Mann's authoritative book on US-China relations, was a practitioner of the "feign" with respect to the US foreign affairs conducted during the Nixon years.³⁵ It should be added that the "bob and weave" and deceptions that were a Kissinger hallmark were intended for domestic and international audiences alike.

In direct contrast, Prime Minister Harper's words appear to represent a different school of thought, one predicated on "I mean what I say and I say

³⁵ See JIM MANN, *ABOUT FACE: A HISTORY OF AMERICA'S CURIOUS RELATIONSHIP WITH CHINA, FROM NIXON TO CLINTON*, (First Vintage Books, 1999).

what I mean.” In examining media reports and commentaries and speaking with individuals from different sectors,³⁶ the overwhelming impression is that Prime Minister Harper, unlike Kissinger, was not engaging in the feign. Rather, Harper was seeking to affect Chinese domestic policy so that they reflect his notion of human rights.

On the assumption that this analysis is correct, what criteria should be developed for determining the policy’s effectiveness? In developing a matrix, the following parameters are suggested:

- 1) What are the policy’s goals?
- 2) Who is the intended audience?
- 3) Is the desired change realistic?
- 4) What are the consequences if the policy fails?
- 5) If the policy has been previously articulated, did it succeed or fail and why?
- 6) What is the vehicle for influencing the suggested policy change?

Based on the above matrix, the following answers serve as a convenient road map in determining the effectiveness of Prime Minister Harper’s policy. The policy’s goal – on the presumption that Harper is to be taken at face value – is to directly affect change in China’s human rights policy with respect to Chinese nationals. But in order to be successful the goal must be more clearly articulated. Harper does not represent a new Canadian perspective; he is just the most recent to articulate it. And, as in the past, the main critique of his demand on China is that it lacks specificity.

There are at least four intended audiences: the Chinese government, the Chinese people, Canadian business leaders engaged in trade with China, and the nations of the world. In analyzing audience impact, the requisite follow-up question is whether the impact on all four should be considered equally or whether Harper’s message is intended for one audience more than the others. We suggest the latter and therefore propose the following order: the Chinese government, Canadian businesses, the nations of the world, and the Chinese people. With respect to the other identified audiences, particularly the nations of the world, their importance (from a policy effectiveness perspective) is

³⁶ Private conversations as preparation for the writing of this article.

unclear. If they adopt Canada's principled position, then Harper can subscribe to himself a modicum of success that will ultimately be tempered when one (or more) nation determines that its national self-interests are best served by engaging China in trade rather than attempting to reform Chinese domestic policy.

The critical issue is whether Canada's demands are realistic. The "X" factor in this equation is whether the Chinese government truly needs Canadian oil. That is, if the Chinese are satisfactorily and consistently able to procure foreign oil from elsewhere, then Canada's importance as a trading partner is significantly reduced. In that event, the Canadian policy will be "high on principle" while simultaneously "low on effectiveness."

C. Foreign Policy

Turning to the consequences if the policy fails, as indicated earlier, there is some indication that Canada's policy toward trade with China is already failing from the Chinese perspective. If that is true, one could argue that Harper's position, if it fails, is likely to only exacerbate an already struggling relationship. From the perspective of Canadian businesses, they may argue that a faltering relationship with China means Canada should do more to repair a weak relationship, something that Harper's position surely does not do.

From Machiavelli to Metternich, foreign relations have ultimately been a reflection of a nation's self-interest; world order reflects a balance of competing, sometimes converging, national interests. Whether principle is relevant to realpolitik is an open question; however, it would seem that economic interests outweigh matters of conscience *even if* individual nations strive to develop a principled foreign policy. That is why the question of intended audiences is so critical to this discussion.

The policy will have failed (from a Canadian perspective) if China procures oil elsewhere and will therefore be able to politely (at best) listen to Prime Minister Harper while duly ignoring his principled approach. The losers? From an economic perspective, the oil speculators in specific and the Canadian economy in general. The winners? China's *other* sources of oil. If international trade is to be viewed as a zero sum game, then a principled policy – or at least one that stakes a principled position – suggests an approach devoid of compromise, and one potentially best expressed as long on principle and short on practicality.

D. An Integrative Analysis: The Olympics – Will Circumstances Force the Issue?

There is also an additional factor to be taken into consideration when

analyzing Chinese human rights policy: the 2008 Olympics. Many have expressed concern that the process of preparing Beijing for the Olympics will necessitate a litany of human rights abuses including, but not limited to, home demolition, restrictions on travel, and insufficient wages for workers. Similarly, there are concerns that during the Olympics China's tight control on freedom of expression will result in further human rights abuses. These issues must be addressed from at least two different perspectives: Chinese attitudes regarding the rights of the individual and the state's obligation with respect to the individual and how human rights violations will "play" in the court of international opinion. To work our way backwards – if the Chinese government is perceived to have engaged in significant human rights violations either before or during the Olympics, international public opinion may force other nations to, at a minimum, address the egregious violations. How serious must violations be in order for states to "violate Chinese sovereignty" by interfering in internal Chinese matters is an open question, but one that may be based on the Canadian model.

As mentioned earlier, China is in the midst of constructing an oil pipeline in the westernmost region of the country to help address its oil needs. Because the oil pipeline runs through Xinjiang, concern has also been raised regarding the possibility of an al-Qaeda terrorist attack in the predominantly Muslim province. The suggested timing: either as a run-up to the Olympics or during the Games themselves.³⁷ With the world watching, would the Chinese respond to such a hypothetical attack with their "gloves off" and therefore, potentially, engage in egregious human rights violations? And if so, would Canada's proposed method of protecting the human rights of Chinese citizens be adopted if the international community chooses to get involved? What would be the costs?

III. Conclusion

According to scholars, China's political history and philosophy suggest that the regime not concern itself with domestic opposition to human rights violations because the individual is expected to be subservient to the needs of the state. In other words, if the state, in response to a terrorist attack on a vital resource (oil) violates the individual human rights of a particular population (Muslims), the general population will exercise restraint in its criticism of the state. While clearly reflective of "lessons learned" from its Maoist past (the Cultural Revolution is but one example of how the state or the Communist Party aggressively responds to internal dissension), it gives the state

³⁷ China: Exploiting the Uighur 'Terrorist Camp' Raid, Strategic Forecasting, Inc., Jan. 10, 2007, http://www.stratfor.com/products/premium/read_article.php?id=282716&selected=Analyses.

significant “wiggle room” from within with respect to how it conducts domestic policy. While that may be the case, the question that stands before us is whether other nations will adopt the Canadian model, or will “lip service” be the preferred response in the name of “mutual business interests.”

If history is an indicator (Santayana’s “those who fail to learn from history are doomed to repeat it” may, yet again, prove prophetic), then the majority of the nations of the world will opt not to follow the Canadian example. History is replete with examples of the turning of a blind eye, rather than taking a principled stand. In this context, are we to view Canada’s stance as a violation of Chinese sovereignty or as a principled stand reflective of the “higher moral ground?” The answer would seem to lie with who is asking the question; from the Chinese perspective, the Canadian position would seem to violate Chinese sovereignty whereas the Canadians would, no doubt, argue that their principle supersedes sovereignty. The question becomes whether these opposing views may meet somewhere in the middle, as international trade, resources procurement, and the international stage center more on China.

