

Interview

Rule of Law Should Be U.S. Priority in Talks with China

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On July 27 and 28, the Obama administration held its first meeting of the U.S.-China Strategic and Economic Dialogue in Washington, where top U.S. and Chinese officials met to discuss a wide range of issues-- economic, security, diplomatic, energy, and environmental. CFR Senior Fellow **Elizabeth C. Economy** says while the two countries share interests on many of these issues, some "serious differences of opinion" remain. She says the lack of effective rule of law in China is at the root of most conflicts it has with the United States. She proposes the United States continue to help China develop its law enforcement capacity, while putting international pressure on China to change its behavior.

How do you assess this round of U.S.-China talks? Are there going to be some important decisions that both sides are going to agree on?

Both China and the United States were very careful in the lead-up to this Strategic and Economic Dialogue not to make any promises of what might emerge from this particular set of talks. They really tried to downplay, not their significance, but the possibility that there was going to be a major breakthrough. Both sides agree that it is critical to maintain open channels of dialogue between the United States and China. Our shared interests run the gamut from security to the economy to the environment to public health. Virtually any issue that you can think of is something that the United States and China need to work on together. But by the same token, we have some pretty serious differences of opinion. Neither side really foresaw any major breakthroughs or concrete innovations or changes from this Strategic and Economic Dialogue.

From my perspective, the most important thing we can do is help them develop the rule of law; it is at the root of most of our conflicts.

The U.S. State and Treasury departments seem to be involved in the talks quite heavily. Does that lead to problems of coordination and maybe even disagreeing on how certain issues should be tackled, for instance climate change or energy?

There is a difference between how the Obama administration has decided to tackle the bilateral engagement with China and how the Bush administration ran the discussions. In both cases, we had the State Department and the Treasury Department involved in bilateral negotiations. They just didn't happen at the same time. The real change is that you now have both the State Department and the Treasury Department running the dialogue together. Inevitably, it gives rise to perhaps some kind of competition among issues. Which issues matter more, and are there trade-offs that need to be made among issues? If there is an area where there was probably some disagreement over who would manage the issue, it was climate change. Climate change had been handled under the Treasury Department, which made sense from the Chinese perspective because the Chinese view climate change as overwhelmingly an economic issue. It is managed out of the National Development and Reform Commission, which was the old planning department of the Chinese government. So it made sense from the Chinese side to have it run on the Treasury side in the United States. But the State Department clearly wanted it, and it was decided here in the United States that, at least from our perspective, it would be run out of the State Department. That is a shift, and we'll have to wait and see how the new interplay between climate change and the financial and security issues involved are negotiated now that it's being run out of State.

Does that hinder negotiations with the Chinese?

They've come to some agreement about how it's going to work between the Chinese on the one hand and the Treasury Department and the State Department on the other. We still have people in Treasury who are responsible for climate change and who will still be very much a part of the discussions. Also, we've seen that the Department of Energy is assuming a strong position in the climate discussions. It's just that the lead will be the State Department.

More broadly, how do you see the current relationship between Washington and Beijing? How may it have evolved from the last administration and what are some obvious areas where we may see future cooperation and discontent?

The biggest change that I see from a year ago this time is not necessarily one of how the U.S. administration is looking at China or how it wants to deal with China. Rather, two things have changed. First and most obviously, is the global financial crisis and the fact that China's economy, [which] used to be one-quarter of the size of the U.S. [economy], is now one-third of the size. The significant recession in the United States changes the playing field. How that dynamic plays out will be important in the future.

The second thing I've seen is that the Chinese have begun to speak with many more voices than previously. Chinese officials and scholars now publicly express a range of opinions. Sometimes it's more difficult than not to know what policy might move forward and what policy might not. We saw this on the Green Dam issue, where the Chinese put forward this significant new initiative to control Internet use. In the face of both international opposition and domestic opposition, they pulled back. It looked like the policy had not been thought through very carefully, not to mention the fact that the technology was faulty. Even on issues as important as North Korea you can now hear diversity of opinion within China. There's a lot more play within Chinese policymaking. There are more voices both within the bureaucracy and from the media and public that ultimately make it much more interesting, but potentially much more complicated in terms of moving forward on a range of bilateral issues.

Writing in Foreign Affairs along with CFR Senior Fellow Adam Segal, you argue that "the current lack of U.S.-Chinese cooperation does not stem from a failure on Washington's part to recognize how much China matters, nor is it the result of leaders ignoring the bilateral relationship. It derives from mismatched interests, values, and capabilities." How do you propose Washington change that?

The only thing that's going to change the current situation is time. As China rises, it needs to develop a greater appreciation for its global impact and what the rest of the world will need from it. The United States can help China, as it has been [doing] already, to develop their legal system and the rule of law. This is fundamental to China's ability to be a responsible world power.

We also have to think in terms of China learning lessons as it goes along. For example, we can spend a lot of time helping Chinese companies develop corporate social responsibility with regard to the environment. It's incredibly important given the extent to which China has gone global in its quest for resources. Chinese companies are everywhere throughout the world. We can help them develop an understanding of environmental, labor, and safety practices. At the same time, as important as helping them develop capacity is probably enforcing global norms before investments are made. For example, Vietnam is in the midst of a very active debate over a potential Chinese mining investment. Why? Because they're concerned about the environmental impact of this Chinese investment, among other things. When Chinese companies realize that they're not going to be able to invest in places, they're going to start to change their behavior. So perhaps there's a carrot and a stick, and taken together they will help the entire global community to help China as it emerges as a global power.

Now for the first time, the Chinese have something they want from the United States, namely stability of the dollar. For the first time, you're beginning to get some parity in the desire of the Chinese and the United States to hold these dialogues and negotiation.

What issues should the United States prioritize in its talks with China?

Off the top of my head, I would say climate change because it is potentially game changing for the entire world in an overwhelmingly negative way. However, my second thought would be the rule of law. The rule of law underpins virtually every other issue. Whether we're talking about food and product safety, or environmental implementation of anything China might agree to when it comes to global climate change, or trade and investment barriers and intellectual property rights protection, all of them hinge on China having an effective rule of law. Without that, the

relationship will continue to founder, because even though we have high-level agreement that we want to work on these issues, if China can't ensure that it will live up to its obligations, then we're going to continue to have serious conflict. From my perspective, the most important thing we can do is help them develop the rule of law; it is at the root of most of our conflicts.

What is the best way to address this issue?

We can do two important things. One is to continue the kind of work that we're already doing to help train Chinese enforcement officials, lawyers, and judges and share our expertise. That kind of capacity building, although it's a long-term process, is absolutely critical. The second thing we can do is to ensure that the full force of international public opinion is made clear to China when it doesn't adhere to global norms. There was a terrific [opinion piece](#) in the Financial Times that made the linkage between human rights, the rule of law, and business very explicit with regard to the case of Stern Hu [Rio Tinto's detained employee, an Australian citizen] and Rio Tinto. If China still wants to be a place for foreign direct investment, and if it wants to be a global trade and economic leader, it's going to have to play by the international rules of the game. Again, there may have to be some international pressure, not just from Australia but from the United States and others, helping China to understand that you can't simply arrest people and deny them legal representation because you'll begin to witness the impact of that, meaning foreign businesses will flee.

Today, China is Washington's biggest creditor and holds more than \$800 billion worth of U.S. treasury securities. Does this in any way compromise U.S. policy toward China?

There's been a lot of speculation on this issue, and many people have suggested that in some way the United States is not going to press China as hard on human rights or some other issue because China is our creditor. I see things rather differently. The fact China is holding all of this debt actually gives us leverage that we've never had before. Traditionally, when the United States and China would negotiate and hold these bilateral discussions, the United States had a very long laundry list of things it needed from China. China had virtually nothing that it wanted from the United States, save for perhaps something to do with Taiwan, such as Washington not selling arms to Taiwan. Now for the first time, the Chinese have something they want from the United States, namely stability of the dollar. For the first time, you're beginning to get some parity in the desire of the Chinese and the United States to hold these dialogues. Previously, it was much more the United States dragging China along to these negotiations.

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