

Will a more realistic approach to ties give the US more sway with China on human rights issues, **Jerome A. Cohen** asks

Question time

Think tanks, pundits and media on both sides of the Pacific have worked themselves into a lather about the state visit to the US by President Hu Jintao (胡锦涛). Foreign Minister Yang Jiechi (杨洁篪) added to the “buzz” by telling the Council on Foreign Relations in New York that the summit is a “historic opportunity” during which Hu and Barack Obama “will map out a blueprint together for China-US co-operation for the new era”.

American officials, having been disappointed by President Obama’s visit to China in November 2009 and the subsequent failure to realise expectations raised by that summit’s joint statement, have more cautiously characterised this meeting as a “critical juncture”. In a speech last week that was far more comprehensive and specific than Yang’s, Secretary of State Hillary Rodham Clinton, chastened by a year of Sino-American tensions following Obama’s visit, no longer reflected the naive optimism and exaggerated concern for China’s sensitivities that marked Obama’s

The acid test will be human rights, the one area where China has shown no willingness to yield to US pressure

initial China policy. Clinton’s emphasis is now on deeds, not words, and the ability of both parties to “deliver positive results” and “more consistently translate positive words into effective co-operation”. She pointedly noted that American policy, in attempting to realise the oft-recited bilateral mantra calling for “a positive, co-operative and comprehensive relationship”, now “is grounded in reality, focused on results, and true to our principles and interests”.

How is this new US approach likely to be received by a China that has been scrambling to improve prospects for Hu’s visit by regaining the goodwill that marked Obama’s earliest months in office? The acid test will be human rights, the one area of contention where China’s leaders have shown no willingness to yield to American pressure. Indeed, Hu’s regime has become increasingly repressive as it strives to impose “stability” and “harmony” on a rapidly modernising but increasingly

fractious populace whose oft-forgotten “have nots” increasingly demand social, economic, religious and legal justice.

In view of the emphasis on human rights in Clinton’s speech and Obama’s publicised meeting with American human rights proponents on the same day, will China respond with more than renewal of the largely symbolic bilateral human rights dialogue? The potentially more productive “experts’ dialogue” promised in 2009 has not materialised, nor has China granted frequent US requests for the release of prominent victims of human rights outrages, as it formerly did.

White House aides are planning for the media to have an opportunity to question the two presidents, an opportunity denied during Obama’s China trip. Will journalists rise to the occasion and go beyond China’s appalling treatment of Nobel Peace Prize winner Liu Xiaobo (刘晓明) to ask about the many lesser-known barbarities routinely inflicted by its government?

Clinton mentioned two leading “rights advocates” who have been victimised. Gao Zhisheng (高智晟), China’s most famous public interest lawyer who tried to defend the Falun Gong against vicious suppression, has long been “disappeared” after obscene tortures failed to break him. Journalists might ask: “Is Gao alive, Mr President?” And what about Chen Guangcheng (陈光诚), the blind, self-taught lawyer who served over four years in prison on trumped-up charges for combating illegal discrimination and police brutality? He is now nominally “free” but unlawfully silenced by an army of rural officials and thugs that has isolated him from all contacts, including necessary medical treatment.

Good follow-up questions might be: “Mr President, why do you authorise such cruelty against these and many other admirable people who attempt to use your country’s legal system to vindicate rights enshrined in your constitution and statutes? Why do your police, prosecutors and judges deny them the protections of Chinese law?”

If the refusal to permit the imprisoned Liu to accept his Nobel prize followed the precedent set by Hitler’s Germany, what can one say about China’s less visible but daily intimidation, beatings, kidnappings and even killings by secret police and the thugs who serve as their storm troopers? Would Confucius, in whose name China has established several hundred institutes around the world in an effort to improve its “soft power”, condone such misconduct? Is the Hu regime’s ruthless repression producing more harmony or discontent? Foreign businesspeople who choose to



ignore this unpleasant aspect of China’s phenomenal economic development do so at their peril. Some of them, too, have been unfairly punished. For example, the Chinese-American petroleum geologist, Xue Feng (薛峰), has been jailed in harsh circumstances for over three years on charges that his American company’s purchase of oilfield information violated the country’s broad and vague “state secrets” law. Xue, who has a University of Chicago PhD, was sentenced to eight years in prison, and his appeal drags on shamelessly as judges reportedly await instructions from political leaders who seem divided about how to dispose of a case rife with procedural irregularities. Obama himself has long requested Xue’s release, and, in an unprecedented protest against injustice, the dynamic American ambassador in Beijing, Jon Huntsman, has often visited him when permitted.

Property rights are also violated daily. The misappropriation of Chinese farmers’ land rights and the forced demolition of urban residents’ housing – often without adequate compensation or sometimes even advance notice – offer vivid illustrations. Last week’s destruction by Shanghai authorities of dissident artist Ai

Weiwei’s (艾未未) US\$1 million art education centre, in apparent retaliation for his public challenges to previous arbitrary government actions, should remind the American business community that more is at stake in China than market access, intellectual property protection and currency revaluation.

Political and civil rights, of course, represent only one of the dozen or more major topics on this summit’s agenda. Some of the other seemingly intractable issues, such as US arms sales to Taiwan, denuclearisation of Korea and Iran, the East Asian arms race, dangerous military incidents and sea boundary disputes offshore China, and climate control, all have profound implications for that most basic human right – the right to life.

Yet, at this “critical juncture”, each seems more readily manageable through imaginative bilateral and multilateral efforts than China’s repression of political and civil rights.

Jerome A. Cohen is professor and co-director of the US-Asia Law Institute at NYU School of Law and adjunct senior fellow for Asia at the Council on Foreign Relations. See www.usasialaw.org