



True North in
Canadian public policy

DRAGON AT THE DOOR

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Dealing with the New China: How Canada can reset its relations with Beijing

Margaret McCuaig-Johnston

Introduction

We are now in the critical transition period of a new government, as the prime minister makes decisions respecting his cabinet, including selecting ministers, and how government processes will function. It is a time of reflection for senior officials as they prepare advice on potential new directions for the newly elected government's consideration.¹ This is also the time when mandate letters for ministers are prepared in the Privy Council Office (PCO) and signed by the prime minister identifying the priorities on which each minister will be expected to deliver. As our most critical foreign policy challenge, China will be a key priority for the ministers of Foreign Affairs and International Trade as well as line ministers such as the ministers of Innovation, Science, and Economic Development, Agriculture and Agri-food, Natural Resources, and Public Safety.

I have been a collaborator with China on science and technology for 40 years throughout my time in government as well as my years in academia. Over that time, I have researched and published on China's impressive innovation system. I was also vice-president of the Canada-China Friendship Society in Ottawa in 2014-16. However,

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the detention of Michael Kovrig and Michael Spavor, and the execution court rulings for Robert Schellenberg and Fan Wei on drug charges, in retaliation for the arrest of Huawei executive Meng Wanzhou, were a turning point in my assessment of China.

Canada's many efforts since the 1950s to aid China's capacity development with practical assistance and bonds of friendship are less important to the new China under President Xi Jinping than the legal situation of Madame Meng. The actions against our fellow Canadians coincide with other more aggressive and often abhorrent behaviour in the past several years on the part of the Xi regime, including: the militarization of the South China Sea; the incarceration and brainwashing of more than a million Uyghurs; the jailing of human rights activists and their lawyers; debt traps and port acquisitions in Belt and Road Initiative projects; and threats towards China's neighbours such as Taiwan. As a friend of the Middle Kingdom for decades, it is my view that China's own actions call for a reassessment and reset of our China policy - and the transition period is the key time to shape that review.

There are, in my view, four principal objectives for the new government:

- a) to achieve the return to Canada of all four Canadians as soon as possible;
- b) to have China's unfair and inappropriate trade actions reversed;
- c) to demonstrate to China that its disproportionate retaliation will create negative consequences for itself; and
- d) to refocus our engagement in Asia.

Global Affairs Canada has very carefully handled the consular and trade cases, and I have been very supportive of the government's actions to date - it is the third and fourth objectives that could see additional actions. We must not be cowed by China's aggressive actions. Rather, it must be clear to Beijing that there are negative consequences to unwarranted actions against Canada. We must stand up for Canada's national integrity and cause China to think twice about launching additional actions. What follows are my reflections on Canada's actions to date and proposed new initiatives.

Clear public and private statements opposing China's actions

I commend the department and government leaders for the very clear and consistent messaging decrying China's actions against our fellow Canadians and also its retaliatory trade actions. It is very important to keep the injustice of their arrests and the execution court rulings in the public eye in a context that demonstrates that China's behaviour is completely out of step with international norms of humanity and cooperation. Civilized governments do not engage in such retaliatory hostage-taking. (I do not refer to it as *hostage diplomacy* because there is nothing diplomatic about it.)

Such action is becoming a pattern for China - Canadian restaurant owners Kevin and Julia Garratt were similarly kidnapped and taken hostage in 2014 in retaliation for the US extradition from Canada of Chinese expat Su Bin, who was subsequently found guilty in the US of stealing military technology. It must be made clear to China that other countries are united in the position that hostage-taking is not an acceptable tool to achieve its international objectives.

Building on this last point, China is very much aware of its international image. It has been very impressive to see the number of countries that have stepped up with public letters of support for our detained Canadians as well as strong public and private statements to the government of China. In particular, the engagement at senior levels in the United States has been significant and, with respect to China's own agenda, very important.

In addition, China experts in think tanks, universities, and companies, including in other countries, have made their own interventions with Chinese colleagues on behalf of our detainees in China. This is the first time such a full-court press has been used. Of all the steps the government has taken, this one seems to have really hit home in China. One can see this by China's public instruction for us to stop, and by private messages back to the Canadian government via Canadian friends of China that these efforts are not welcome.

China is losing international face, not by malicious actions towards it, but by other nations pointing to China's own actions and indicating that they are unacceptable in the community of nations. There is an easy way to begin to repair China's image: by sending home our Canadians and dropping the bans. If they do not, it is very likely that there will be occasions when additional statements by other nations may be appropriate and should be requested.

“Business as usual”

I very much recognize the desirability of maintaining the business activities of the many Canadian firms that are now engaged in China. We do not want them to be collateral damage in the ongoing difficult relations. Furthermore, I know that universities and other institutions have ongoing research projects with Chinese counterparts. These will continue and will be an essential bridge between the two countries when we reach a point where relations can start to improve. And I very well know the importance of foreign students from China to the innovation and dynamism of our colleges and universities.

However, in the context of the tremendous harm already done to four Canadians and to many agricultural businesses, now is not the time to be drumming up new business and opening new vehicles of collaboration. That is why I wrote an op-ed in the *Globe and Mail* (McCuaig-Johnston 2019), as a former executive vice-president of the Natural Sciences and Engineering Research Council (NSERC), reacting strongly to the news that NSERC was creating a new Huawei Research Chair.

I am not suggesting a formal moratorium on R&D with Huawei at this time, though I know that some universities have revisited the terms of their agreements with the company in the wake of a *Globe and Mail* exposé revealing the dearth of benefits to Canada from the research. But there is, in my mind, a significant difference between continuing current business and creating new collaborations with happy signing events that seem oblivious to what is going on elsewhere in the relationship. Our relations with China should not be compartmentalized in that way, and China should not be able to reap the benefits of new collaborations with Canada while brazenly kidnapping our citizens and blocking our exports.

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At minimum it is unseemly to be giving China even more government R&D funding (matched to Huawei's) and our highly qualified research talent while we are victimized for the *legal* extradition of a Huawei executive. In practice, it shows China that it can benefit from anything it chooses to have of ours while making its political points unjustly wherever it wants. That kind of lesson, unchallenged, acts against the interests of Canada and other nations in the longer term.

Regarding our agriculture exports, departments and agencies have handled the challenges with deft and measured actions, making clear demands to see evidence, offering assistance and clarifications, and initiating WTO action where necessary. I commend the ministers and officials involved with these files. We saw that this clear action led to a change in China's stance with respect to pork and beef, calling an end to their ban. It appears that China has accepted the results of the investigation into the fraudulent paperwork that had accompanied one shipment from Canada in June.

If the WTO action on canola does not result in a speedy lifting of the ban, it will be more evidence to the international community that China's trade actions can be sudden, arbitrary, and unfair - negatively affecting China's international reputation and resulting in fewer and more wary trade partners in the longer term. The Canadian government also did the right thing by stepping up quickly to provide assistance to the agriculture sectors affected by China's bans.

Another "business as usual" measure the government can take is close inspections of Chinese imports and rigorous enforcement of Canadian standards. I noticed over the summer the Canada Food Inspection Agency (CFIA) announcement about fake honey from a number of countries, including China. This is the kind of day-to-day operation that can and should be stepped up to ensure that what comes into our country meets every specification. Again, this measure is directly related to the apparent increased inspection by China of agricultural and other products from Canada. Beijing can hardly object to us doing the same and finding completely legitimate (not gratuitous) reasons to block some products.

Indo-Pacific relations

The ministers of International Trade and Agriculture and Agri-food Canada were right to make strong efforts to find other markets for Canada's agricultural trade as soon as China blocked our products. The Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP) will be one very important alternative trade option, and others are anticipated. Renewed defence and cyber collaboration with like-minded countries in the region and trade in such areas as education and innovation with those countries with common interests (a broader set of countries than the like-minded) are other areas of potential focus.

A new Indo-Pacific Strategy would reflect such enhanced policies. This is the medium to long-term strategy that Japan adopted in the period after its 2010 and 2012 rupture of relations with China that had resulted in a similar detention of Japanese citizens and trade measures against its goods.

Complementary to this new Indo-Pacific Strategy would be a renewed focus on support for Taiwan. I was pleased to see Canada's recent initiation of steps to consider Taiwan for membership in the CPTPP. (It would run counter to the overall objective of that trade deal to allow China to join, as has been suggested by some.) I was also pleased to see that Canadian naval ships had passed through the Strait of Taiwan in recent months, recognizing that it was the shortest distance between two places; such presence is an important signal of support for Taiwan.

Canada's support for Taiwan's attendance at meetings of international organizations such as ICAO and WHO is another signal that we believe that they should be part of the international information exchange on important matters of air safety and international public health; their exclusion in recent years due to pressure by China is petty and dangerous for travelling citizens of all nations.

On this last point, it has been an explicit strategy of China under the Xi regime to take on the leadership of international bodies and standards organizations; it is now apparent that when this happens, one of the first actions of the Chinese leader is to ensure the exclusion of Taiwan from such bodies. Clearly in these two cases, and perhaps others, there are important health and safety factors at risk..

Other measures should include: enhanced science and innovation exchanges; exploratory discussions towards a Foreign Investment Protection Agreement (FIPA); sending junior ministers to Taiwan for higher-level engagement on matters of common interest; and changing the name of the Canadian Trade Office in Taipei to the Canada Office Taipei, in line with the US, UK, Australian, and Japanese offices.

Our country is confronted not only with unwelcome detentions and trade actions, as important as these are. It has become clear that the China of Xi Jinping is not the collaborative China of his predecessors. His actions regarding the South China Sea, the Belt and Road Initiative, surveillance technology in the Arctic, cultural genocide in Xinjiang and Tibet, the “social credit system” (SCS) and corporate SCS, the integration of military and civilian technology development, arrests of human rights and environmental activists, threats against Hong Kong activists, interference in Western society and politics, and military scientists and engineers in Western universities are creating significant global challenges.

A priority of the new government should be a review of the new China and of how Canada will need to work with it in some areas and insulate itself from China’s behaviours in others. This should be undertaken in the context of the overall Indo-Pacific Strategy, taking account of China’s relations with other countries in the region.

Additional action related to the detentions

Mr. Kovrig and Mr. Spavor have already been in detention and then prison for 11 months, with their formal arrest having occurred six months into their ordeal. They have yet to see a lawyer. However, if in the coming months they are formally charged, it will be clear that China has no intention of returning them any time soon. At that point, the government should use the occasion of formal charges being laid to activate our *Justice for Victims of Corrupt Foreign Officials Act* (Sergei Magnitsky Law).

If ever there was a case that called for measures under Canada’s Magnitsky legislation, it is the detention of Michael Kovrig, a diplomat who was merely on leave and whose diplomatic responsibilities relate to the act’s section 4 (2), which describes the circumstances in which action can be taken under the act (Canada 2017). It is known that he has been interrogated about his time as a diplomat in China, which is against the Vienna Convention of 1961.

Canada’s Magnitsky legislation calls for measures such as visa bans and freezing or seizing assets of officials – many Chinese officials have such financial and real estate assets in Canada. In this case, it would include officials of the Ministry of State Security, and others in the approval process up the line – it would be a government decision as to who to name. I recognize that this measure would invite objections and perhaps more from Beijing, but the action is directly related to the detentions. In addition, it would affect China’s international reputation, about which it is concerned.

It could take as much as a year and a half to go through the court proceedings, which 99.9 percent of the time result in a guilty verdict – judges are instructed by the Party what verdict and sentence to apply. If we do not use the legislation for Michael Kovrig, perhaps weighing the potential for more disproportionate retaliation by Beijing, then the government should repeal the legislation as it should apply to all countries according to the act’s principles (e.g., “gross violations of internationally recognized human rights”), not just to countries whose reactions we do not fear.

Historically the Canadian government has avoided connecting an international policy or a sectoral trade problem to other sectors or strategies due to the perceived potential for a domino effect that could create more numerous or more significant policy or trade challenges. I would point out, however, that China itself does not hesitate to draw linkages – hence the agricultural trade measures in retaliation for the arrest of Madame Meng.

In addition, as indicated above, acting on our Magnitsky legislation in this case would be directly related to the kidnapping, detention, and then incarceration of one of our diplomats.

If relations deteriorate further and Canada wants to send a strong message to Beijing that it must stop its aggressive actions, we should take additional measures that will get their attention that would indeed be linking to other policies and sectors but in my view would be warranted given the gravity of China's actions towards Canada. These actions would include:

- **Increasing the cost of, or prohibiting outright, the sale of Canadian real estate for buyers from China.** Such action has recently been supported as lawful by a BC Supreme Court decision as it is based on immigration status rather than ethnic or national origin (Procter 2019). This measure would have to be undertaken in collaboration with other levels of government and would have the added benefit of improving housing affordability for Canadians.
- **Sending home China's athletes who are training for the Winter Olympics to be held in China in 2022.** Why are we helping China win Olympic gold when they are treating our own citizens inhumanely?
- **Sending home China's pandas three-and-a-half years early.** Their pandas are always symbolic of friendship, but China has proven not to be a dependable friend. The pandas are currently housed at the Calgary Zoo with a return date of March 18, 2023.
- **Not planning recognition events for the 50th anniversary of Canada's recognition of China in 2020.** Such events underscore the friendship between the two countries. Unless China reverses its trade measures and sends our Canadians home, there is nothing to celebrate, and recognition events would be seen by most Canadians to be very inappropriate. It was surprising and disturbing to many when Governor General Julie Payette referenced the anniversary in accepting the credentials of China's ambassador to Canada.
- **Reviewing whether to withdraw from the Asian Infrastructure Investment Bank.** The AIIB is a Chinese government initiative to set up a competitor body to the World Bank and the Asian Development Bank – one in which it would wield more control. Canada has been a member for a year and a half, and a review could be undertaken to assess the experience so far and determine whether to continue membership. I suggest a review rather than simple withdrawal because a new Canadian Indo-Pacific Strategy might benefit from the AIIB platform for engaging with other countries in the region.
- **Introducing legislation similar to Australia's *Foreign Influence Transparency Act*.** Canada too has seen the need for measures aimed at ensuring that those acting on behalf of foreign governments are identified and their actions monitored. China's interference in Western political systems is concerning. In Canada it can have the effect of bringing the allegiance of Chinese-Canadians more broadly into question, making them very real victims of the United Front Department campaign for influence in Canada. The concern of such measures is not the Chinese people but the tactics of the Party in other jurisdictions.

For more significant impact, these measures should be taken at the same time, to send a very strong message that Canada has had enough. I recognize that there could be retribution by Beijing for such actions given that the new regime has proven itself to be aggressive in its dealings with other countries. I do not suggest them in a cavalier manner, but they may be required to convey to China that its actions have gone too far and it should show more respect to its partner of almost 50 years. Loss of face is keenly felt in China.

Huawei

I was pleased to see that the decision on Huawei and other Chinese technology for 5G in Canada had been deferred until after the election. I had been concerned that the government might hasten a decision in advance of the dropping of the writ given the veiled threats coming from China if we do not approve it. I have spoken out publicly in opposition to the approval of Huawei for any part of Canada's 5G network based on my knowledge of China's intelligence legislation, policies, and intentions, as well as my understanding of the 5G technology platform and its vulnerabilities. This is not a matter of linkage but is on an independent and time-sensitive track.

Canada is a key member of the Five Eyes group of countries that share intelligence information. Our future participation in this network is critical to our security, and would be seriously jeopardized if we allowed a Chinese company to carry Five Eyes intelligence on its equipment. The other participating countries would simply not share their intelligence with us fully. To suggest that Canada's participation would not be affected is naïve.

Furthermore, Huawei and its employees have been shown to be untrustworthy in other countries, where they have stolen trade secrets, IP, and technology design information (Maizland and Chatzky 2019). And in 2016 another Chinese state-owned enterprise (SOE), China Telecom, used one of its two point-of-presence nodes in Canada to divert Canadians' Internet traffic that was intended to go directly to South Korea a longer way through China; once caught, China Telecom stopped for a few months but then started the diversion up again for shorter periods (Demchak and Shavitt 2018). This is in addition to multiple cases of hacking by Chinese government actors of the Canadian government computer systems and private Canadian companies since 2010.

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Other nations are concerned about Huawei not just setting up backdoors but also planting bugs and covering them up so they can be released at a later time – or implementing a shutdown of the entire IT system. Given the pressures China is now putting on Canada, one can see a scenario wherein such dramatic and devastating action would be part of China's toolkit for dealing with countries that do not kowtow.

Of course, cyber and security concerns are not factors for the equipment of other countries (e.g., Sweden – Ericsson; Finland – Nokia; South Korea – Samsung), but China has shown itself to be malevolent in its actions towards Canada in the past, and this aggressive attitude has ramped up dramatically in the past year. Article 7 of the National Intelligence Law requires any organization to cooperate with state intelligence work and to keep that work secret (China 2017). If Beijing wanted to reassure other countries that Huawei would not be required to do so, it could repeal that article of the act – but it has not done so.

And if Canada chose to go with Huawei for even part of our 5G system, it would be difficult to exclude them from 6G and 7G after that. Huawei is not a private company, as is sometimes claimed, but is 1 percent owned by Meng Wanzhou's father, with the rest held and managed by a Trade Union Committee run by the Communist Party; employees are not able to monetize any “ownership” of the company (Balding and Clarke 2019). It would be folly to hand the keys to our national infrastructure to what is effectively a Chinese SOE.

It should be pointed out that no Crown corporation or private Canadian company would be permitted to do so in China under its Foreign Investment Law and its Negative List of more than 40 sectors prohibited or restricted from doing business in China (China 2019). They are smart enough not to open themselves to such external control by another nation. Indeed, the Ministry of State Security has a campaign to warn citizens to beware of foreigners (Potter 2018). We must recognize, however, that China's law contains a clause that allows it to take corresponding measures against any country that would prohibit or restrict Chinese investment in said jurisdiction.

As a result, China can restrict foreign investment but other countries will face retribution if they do so. That is neither reciprocal nor fair, but it is the reality of the new China. The equipment of Huawei's competitors is fundamentally as good as Huawei's, and better on some features; it is harder for them to compete on price given the subsidization of Huawei's equipment by the Chinese state – a factor that China is hoping will persuade other countries.

Canadian carriers have expressed concern about whether they would need to take out their current Huawei equipment in the event that Huawei is excluded from 5G. It may be possible to grandfather Huawei 4G equipment if it can be retained safely, but if that were not possible, the federal government should compensate carriers for their costs – this would be far cheaper than trying to recover from a major breach of our national IT systems.

Other measures related to Huawei could include an advisory to Canadians that their cellphones may be at risk due to the company's complicity in China's "social credit system" that involves surveillance of people's communications on Chinese phones and networks (Tucker 2019). They should not be used by officials in any of the three levels of Canadian government, nor should China's texting apps such as WeChat. I deleted mine in August 2016 when I was in Shanghai and learned of the social credit system and how it was going to work. It is very concerning for Canadian businesses operating in China that a corporate social credit system is being rolled out now whereby all companies – including foreign firms and their employees – will be assessed and rewarded or penalized for how closely they adhere to legislation, regulations, Communist Party rules, and standards of behaviour.

Conclusion

It pains me to make recommendations for action against China. I have invested decades of personal effort to improve Canada-China relations. But the unjust detention of innocent Canadians has spurred me to speak out publicly against such despicable actions, despite my having never participated in a media interview or written an op-ed in my entire 43-year career up to 2019. The recommendations in this paper respond to China's own behaviours, not any negative view of the Chinese people, whether in China or here in Canada – to the contrary, they too are often the victims of the Party's arbitrary detentions, and such injustices need to be exposed publicly and internationally.

Some other Canadians engaged in China relations agree that China's actions as described above are very concerning, but they do not want to say so publicly. They want to rebuild relations and get things back on track as soon as possible. I doubt that this will be so easy or even possible. We are seeing a new era in China's international role. We must recognize it clearly and act to protect Canadian citizens and Canadian businesses. Beijing has relayed to us via Canadian friends of China that Canada is not a middle power but a small power that should not side with the United States. We will indeed be treated by China as a small power if we are not prepared to stand forthrightly for our national integrity and independent decision-making, and defend our fellow Canadian citizens.

About the Author



Margaret McCuaig-Johnston is Senior Fellow in the Institute for Science, Society and Policy at the University of Ottawa, where she has been lecturing and writing on China's innovation policies since 2013. In addition, she is a Senior Fellow at the China Institute of the University of Alberta where she has published research on China's innovation system and Canada-China S&T relations.

Over a 37-year career in the public service, Margaret held senior management positions in the governments of Canada and Ontario. Most recently she was Executive Vice-President of the Natural Sciences and Engineering Research Council; prior to that she was Assistant Deputy Minister of Energy Technology and Programs at Natural Resources Canada; and her first Assistant Deputy Minister appointment was at the federal Department of Finance. She has also had management positions at Industry Canada, the Prime Minister's National Advisory Board on Science and Technology, the Ministry of State for S&T, and the Privy Council Office (the

Prime Minister's department), primarily positions related to S&T policies, programs, and funding. She also worked for eight years in the provincial government of Ontario.

For the last seven years of her government career, Margaret was a member of the Canada-China Joint Committee on Science and Technology. She also had close relations over the years with China on other matters such as energy, manufacturing, industry associations, and think tanks. Margaret edited the first English translation of China's National Innovation Index for China's Ministry of Science and Technology. She has visited China more than a dozen times, the first in 1979 when the country had just started opening up to the West. Margaret holds an MA in International Relations focused on China, and an Honours BA in Political Economy. She speaks French and basic Mandarin. She is also vice-chair of the board of the Sudbury Neutrino Observatory - SNOLAB, and a board member of the Canadian International Council (National Capital).

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Endnotes

- 1 I worked on the transitions of two governments in the 1980s in the Machinery of Government Secretariat of the Privy Council Office, and in numerous transitions in various line departments and agencies since then.



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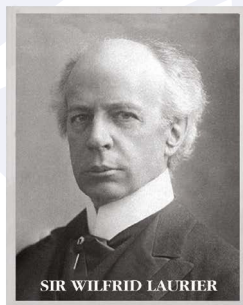
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