

USALI Perspectives

Of Dialogues and Prisoner Lists

As China prepares to resume bilateral human rights dialogues, a human rights advocate reflects on their record

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In August 1989, just weeks after the Chinese army opened fire on peaceful protesters in Tiananmen Square, the UN Human Rights Commission's [Subcommission on the Prevention of Discrimination and Protection of Minorities](#) passed a [resolution censoring China](#). It was the first and last time that China lost a vote at a UN forum over its human rights record.

Since then, Beijing has strenuously lobbied and spent significant resources to make sure nothing like this ever

happened again. Instead of multilateral discussions about its treatment of dissidents and minorities in open UN fora, the Chinese government persuaded Western countries to present their criticisms in closed-door, bilateral human rights dialogues. One of the main features of such dialogues was the presentation by the foreign party (and acceptance by the Chinese side) of prisoner lists. As China prepares now to revive its dialogues with some Western governments, it's worth reflecting on

the role that dialogues and prisoner lists have played.

Switzerland and the United States were the first two countries that China invited to launch these dialogues, which began in 1991. Geneva was home to the Human Rights Commission (now the Human Rights Council), and China hoped to discourage future critical resolutions by lobbying Swiss officials in Geneva and Berne. Geneva also was home to the International Committee of the Red Cross (ICRC). Access to Chinese prisons by the ICRC has been a key demand of Western governments for decades.

As for the United States, China was not fazed by the sanctions put in place by the George H.W. Bush administration after Tiananmen, but it was deeply worried by the prospect of Congress revoking its trade privileges, notably its MFN status. To avoid this outcome, Beijing made many concessions to prevent the loss of its trade status, including releasing dozens of political prisoners, agreeing to a memorandum on prison labor in 1992, and initiating numerous bilateral human rights dialogues.

Throughout the early 1990s, other governments agreed to hold their own bilateral human rights dialogues with China. These included the [European Union](#), the [United Kingdom](#), Germany, [Norway](#), Canada, [Australia](#), and [Japan](#). In addition to periodic human rights

dialogues, the United States and China held seven sessions of a legal experts' dialogue, focusing on rule of law issues. China also held human rights consultations with the Netherlands, New Zealand, and developing countries such as Brazil.

In addition to the submission of prisoner lists, bilateral human rights dialogues featured visits to Chinese and American courts and prisons, and, in rare instances, meetings with representatives of civil society groups. All told, more than 120 sessions of human rights dialogues took place between China and foreign countries between 1991 and 2019, according to my count.

As time went by, China held fewer and fewer dialogues with foreign governments. It also downgraded the status of officials leading the dialogues, from vice-minister to assistant minister, then to director general, and finally to deputy director general or special representative. According to a senior Chinese official, once China achieved its goals of lifting post-1989 economic sanctions and entering the World Trade Organization, it no longer felt the need to hold human rights dialogues or otherwise make human rights concessions.

The last governmental dialogue, a session with the European Union, [took place in 2019](#). China cited various reasons for suspending or cancelling

dialogues: with Norway, it was the 2010 award of the Nobel Peace Prize to Liu Xiaobo; with Japan, it was visits to the Yasukuni Shrine by senior Japanese officials.

However, alarmed by the deterioration of China's image in the West, Beijing decided in late 2022 to resume human rights dialogues with Western governments. On February 11, [Hong Kong's South China Morning Post reported](#) that the EU and China would hold the 38th session of their human rights dialogue in Brussels at the end of the week of February 13. Beijing has hinted that it is [willing to resume its dialogue with Australia](#).

China suspended the dialogue with the United States on at least three occasions, most recently in 2016 after [then-President Barack Obama met with the Dalai Lama](#). Then-assistant secretary of state for democracy, human rights, and labor, Tom Malinowski, declared that the dialogue with China had been a waste of time anyway. No efforts have been made to revive it.

The suspension of both the human rights dialogue and the legal experts' dialogue that same year were but two of the official US-China dialogues in various issue areas that were done away with immediately before or during the Trump administration. More recently, [dialogues with the Biden administration on climate change and narcotics](#) were

frozen in the wake of then-House Speaker Nancy Pelosi's visit to Taiwan in August 2022.

The submission of prisoner lists to the Chinese government was always the most valuable part of rights dialogues. Some of these lists have been very long, containing hundreds of names of individuals subjected to coercive measures in virtually every province and autonomous region. Lists promote transparency and force the Chinese government to focus on specific individuals whose rights have been violated, drawing in ministries and courts responsible for the violations. In response to prisoner lists, over the years the government released information about the location and status of hundreds of political and religious prisoners who had simply dropped into a black hole.

The lists also have played a role in gaining clemency for political and religious prisoners. According to a survey submitted by the Dui Hua Foundation to Congress in 2005, presence on a prisoner list tripled the chance that a prisoner would be granted clemency. Even when the Chinese government declines to respond to a list, evidence suggests that the inquiry is passed along to ministries and courts, where, occasionally, action is taken.

For the same reasons that it downgraded human rights dialogues, China's

Ministry of Foreign Affairs increasingly resisted accepting prisoner lists. In one instance, a list was left on the table while the Chinese official leading the dialogue played video games on a cell phone. No written responses to prisoner lists submitted by governments have been recorded since 2012.

Matters came to a head at the 18th session of the [US-China dialogue in Kunming](#) in July 2013. The leader of the Chinese side refused to accept the US list. Only after intense pressure from the US side was the list begrudgingly accepted. The director general who led the Chinese side [made clear that this would be the last time](#) the Ministry of Foreign Affairs accepted a prisoner list from a foreign government.

While governments have been unable to hand over lists, my organization, the Dui Hua Foundation (whose name means “dialogue” in Chinese), has been able to submit lists continuously since it was established in 1999. By the end of December 2022, Dui Hua had handed over 463 lists containing altogether more than 2000 “unique” names of prisoners (“unique” means names are only counted once; it is not uncommon for a name to appear on dozens of Dui Hua lists). Interlocutors responded on

282 occasions, providing information on more than 1,000 unique names. In 2022, Dui Hua submitted 21 lists, received 27 responses, and learned of instances of clemency or better treatment for 22 names on its lists.

The degradation of human rights dialogues that intensified after Xi Jinping assumed power in 2012 is not the only blow to judicial transparency during the strongman’s reign. In June 2021, China’s Supreme People’s Court purged all cases involving state security, “cults,” and death sentences from its judgment website. Crafting prisoner lists has become increasingly difficult for Dui Hua, but it has found new sources and new channels to continue submitting lists and getting responses.

Experience tells us that dialogues cannot immediately solve China’s human rights problems, but they can increase transparency. Prisoner lists in particular have benefited prisoners and their families, and should be part of any resumed dialogues. Dui Hua, which remains committed to a mutually respectful dialogue with the Chinese government, plans to continue submitting lists for as long as it is able to do so.



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