

How To Respond To China's Geopolitical Kidnappings

Without resorting to further extraterritorial overreach, America and its allies can counter Chinese retributive detainment.

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China as kidnapper has become that ancient nation's latest incarnation. A century ago it was global victim, battered and divided by the West, including America. Then it became a friend, as Christian missionaries flooded in after the collapse of moribund imperial rule. During World War II, China was a valued ally, tying down much of the Japanese army.

The revolution led by Mao Zedong and the Chinese Communist Party turned that tragic land into an adversary. With Beijing's entry into the Korean War the People's Republic of China became an enemy. That status persisted throughout most of Mad Mao's rule, which included the disastrous Great Leap Forward and chaotic Great Proletarian Cultural Revolution.

But in 1971 the PRC became a friend. That lasted perhaps through 2012, when Xi Jinping became CCP general secretary. Indeed, despite growing disquiet in the U.S. and elsewhere over changing Chinese policy, economics and cooperation dominated the bilateral relationship throughout the Obama administration. President Donald Trump's April 2017 welcome of Xi was warm—unseemly so, in some eyes.

Four years later, Beijing has returned to adversary status. And many Americans, because of China's misleading claims regarding COVID-19, increasing threats to Taiwan, and growing assertiveness elsewhere, believe the PRC to be an enemy. Added to this list of offenses is taking foreign hostages. Although Canada was the principal victim of late, America was at least collateral damage.

Almost three years ago the chief financial officer of Huawei Technologies, Meng Wanzhou, daughter of company founder Ren Zengfei, was arrested in Vancouver on an American warrant

claiming bank fraud growing out of evasion of U.S. sanctions on Iran. Days later the Chinese detained two Canadian citizens, Michael Kovrig and Michael Spavor, on criminal charges widely recognized as spurious.

Over the last three years Meng lived under effective house arrest and fought Washington's extradition request. The two Michaels, as they were known, were originally held without charge, and later convicted of espionage. Last week the impasse was broken. Meng agreed to a deferred prosecution agreement, stating facts indicating guilt—though that is of uncertain value against Huawei in such a political case—and flew home after Washington dropped its extradition request. The two Michaels were released almost immediately after she boarded her flight.

Of course, the Chinese denied any connection among the cases. Foreign Ministry Spokeswoman Hua Chunying insisted: “The Meng Wanzhou incident is completely different in essence from the two Canadians' cases. The Meng Wanzhou incident is a political frame-up and persecution against a Chinese citizen, an act designed to hobble Chinese high-tech companies. Now Ms. Meng Wanzhou has returned to China safe and sound. Michael Kovrig and Michael Spavor, suspected of committing crimes of endangering national security of China, applied for release on bail for medical reasons. After the confirmation from related departments and diagnosis of professional medical institutes of China and under the guarantee of the Canadian ambassador to China, the Chinese courts concerned decided to release them on bail in accordance with law and national security authorities enforced the decision.”

No doubt, she, and the Chinese government, believed that Meng was the victim of a “political frame-up,” and she probably was. The charges were flimsy, arrogant extraterritoriality applied to the PRC to enforce Washington's failed sanctions policy against Iran. And, conveniently, lodged against a Chinese telecommunications company which the U.S. was attempting to cripple as an alleged national security threat. Some analysts speculated that Meng was targeted because of Beijing's support for the nuclear deal with Iran and planned investment in Tehran's energy industry. Which would be consistent with Trump administration policies.

Moreover, the case would normally have resulted in civil action against a company, not criminal action against an executive. Certainly, Americans would be outraged if a fellow citizen was prosecuted to enforce Chinese sanctions against, say, Taiwan or Japan. Washington's credibility took a significant dive after Trump said that he might use Meng's prosecution as leverage in forcing a trade deal.

However, the rest of Hua's statement was political nonsense. No one, not even CCP apparatchiks, believed that either of the Michaels was a spy. But that didn't matter, since the Chinese public strongly backed Beijing's response to what was widely seen as a “political frame-up.” Yale Law School's Jeremy Daum said that the PRC presented the case “as the Chinese government standing up to the U.S. to get a citizen back; they stood up to the bully and the bully backed down.”

Indeed, the coincident release of the Michaels, which defied conventional wisdom that the PRC would wait a “decent interval,” likely was more than synchronicity. Beijing effectively demonstrated to the world that anyone anywhere might suffer if their government displeased

China. This action likely enhanced the Xi regime's popularity at home, quieting criticism from Chinese who wondered why their government, which claimed that the two Michaels were guilty of espionage, freed them for no apparent reason. The coordinated release was the modern equivalent of a spy trade, only done in broad daylight with one side lying about the operation's purpose.

Adding another suspicious release to the controversy, Beijing lifted its exit ban on Victor and Cynthia Liu, who in 2017 traveled with their mother, Sandra Han, to China to see their sick grandfather, the day after Meng's release was arranged. The Lius' father, a former bank executive, was wanted for fraud and the government apparently hoped to force his return to the PRC. Although they were taken hostage for reasons separate from Meng's case, their release became entangled with her arrest.

Ironically, the Biden administration also denied any connection among the cases.

"I think it's important to note, and to be very clear about this, there is no link," said White House Press Secretary Jen Psaki: "We have an independent Justice Department. We can't determine how the Chinese or others manage their business over there." The Justice Department denied that it negotiated a trade for the Michaels or Lius.

On this, Washington's claim was no more credible than Beijing's denial, though Canada may have acted as middleman, passing offers back and forth. After all, even an "independent" Justice Department must sometimes subordinate its actions to other national priorities, as Trump's comments about leverage made clear.

The process made a mockery of justice all around. Meng did not belong in jail. The Canadian Michaels certainly did not. And the Lius should have been allowed to depart long ago.

China was the primary loser. It got its citizen back, but at high cost. No one outside of the PRC believed that the two Michaels were arrested for any reason other than retaliation. Scott Kennedy concluded that the global drop in Beijing's reputation was a consequence, though Xi Jinping's manifold other misbehaviors likely contributed. Indeed, taking a couple hostages is a modest crime compared to the many grievous offenses committed by the PRC over the years.

More telling is the reaction of businessmen and academics to the arrest of the Michaels, along with related factors, such as China's harassment of journalists. Argued Kennedy: "In the 13 months between the Michaels' arrest and the outbreak of the pandemic, international CEOs evaluated the risks of visiting China, and many decided to stay away. The longer this case dragged on, the more entrenched their fears have become. Similarly pronounced has been the worsening shift in opinion by the scholarly community. A June 2021 survey of China hands asked whether they would return to China once the pandemic ends and normal travel resumes; a whopping 40 percent said 'probably not' or 'definitely not.'"

Moreover, rather than crumble before Beijing's onslaught, Canada left the case to the courts. Exactly who blinked when is disputed, but Ottawa followed the law and acted only after the U.S. dropped its extradition request. Canada may have pushed Washington to compromise, but

sporadic negotiations between Washington and Beijing apparently began shortly after Meng's detention in December 2018. The U.S. reportedly first proposed last year what became the final deal. She ultimately had to concede guilt to win her release.

How to prepare for similar controversies in the future?

First, the U.S. should generally forgo extraterritorial regulation. Sanctions should be focused and calibrated, and only very rarely secondary in nature. China is not the only country outraged by Washington's misuse of its disproportionate financial influence to promote U.S. priorities irrespective of other nations' interests. Indeed, America's arrogance is pushing other nations to develop financial alternatives to reduce U.S. influence. Governments with more clout than morals also are prepared to strike back, as China did over Meng's detention.

Of course, those who still expect the U.S. to run the world complained that the Biden administration caved. For instance, opined Rep. Jim Banks, "the United States is broadcasting to any would-be criminals that we are not very serious about enforcing our sanctions laws. This is a dream come true for Iran, Hamas, Russia, North Korea and every other entity who have been slapped with our sanctions." Alas, none of the penalties he cited achieved any political end, instead only hurting those already suffering as a result of military conflicts or domestic repression. Indeed, Iran raced ahead with its nuclear program after the Trump administration foolishly reapplied sanctions. Washington had no more luck with Cuba, Venezuela, Syria, North Korea, or Russia.

Second, the U.S. should avoid politicizing legal cases. Trump's comments about the Meng imbroglio undercut Washington's credibility. He also sought to meddle in the prosecution of Turkey's Halkbank, which was charged with sanctions evasion. Moreover, Turkish President Recep Tayyip Erdogan claimed that Trump was working on the former's request, which lacked the requisite legal evidence, to extradite cleric Fethullah Gulen, a former Erdogan ally turned critic.

Third, democratic governments should "adopt" citizens of allied and friendly states held hostage and collectively raise the issue with offending regimes. Countries should emphasize that international trade, investment, and other forms of cooperation require fair and honest treatment of nationals of all countries. China or any other country—Iran also uses this tactic—should understand that this behavior necessarily damages its relations with other states. Democratic governments should back their position with practical steps highlighting their disapproval.

Fourth, allied states should collaborate when any of their citizens are improperly seized by unfriendly governments. Although countries bound by the rule of law cannot play the hostage game, they could subject to greater regulatory and legal scrutiny large, flagship firms coming from countries whose governments engage in legal kidnapping on a regular basis. Allied states also could tighten visa requirements, adjust financial rules, and raise trade barriers in retaliation for political prosecutions. These steps would be economically undesirable, obviously, but it would be worse to accept abusive behavior without consequences.

Fifth, victims should publicize rogue behavior. China paid a price in Canada, as 73 percent of Canadians now view the PRC unfavorably, up from 40 percent in 2017. The greater the offenses revealed, the stronger China's critics will grow. Earlier this year the European Union negotiated a long-awaited investment treaty with Beijing. However, after the PRC sanctioned several European leaders, the European Parliament refused to take up the treaty. Lawless regimes should pay for their crimes.

Although China has committed many wrongs, America's extraterritorial overreach triggered the Meng Wanzhou controversy. However, that did not justify Beijing's legal kidnapping. Democratic states should work together to punish similar Chinese misbehavior in the future.

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