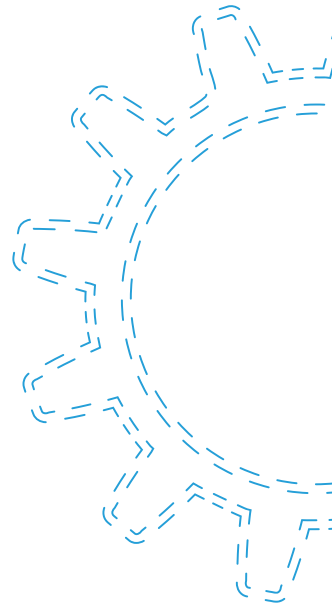




CAUGHT BETWEEN GIANTS: HOSTAGE DIPLOMACY AND NEGOTIATION STRATEGY FOR MIDDLE POWERS

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What is hostage diplomacy, and how can U.S. allies respond to China's use of this coercive tool of foreign policy? We conceptualize "hostage diplomacy" — the taking of hostages under the guise of law for use as foreign policy leverage — to explain an underexamined form of international coercion. Exploring an international crisis over three prisoners — China's Meng Wanzhou and Canada's Michael Spavor and Michael Kovrig — we illustrate the turn toward hostage diplomacy by China and other authoritarian states. Drawing on the principles of negotiation, we analyze the creative negotiation strategies that middle powers might adopt to bring their captive citizens home. In doing so, we show how the fate of these three individuals had implications for policy concerns ranging from Iran's nuclear program, to the adoption of 5G technology, to the future of the liberal international order.

Since the ascent of hostage-taking terrorism in the 1970s, democracies have pledged not to give in to terrorists' demands.¹ Successive American presidents and other G7 leaders have affirmed their refusal to negotiate, even as their citizens face terrible violence and certain death.² In April 2016, after Canadian hostages Robert Hall and John Ridsdel were killed in the Philippines by the terrorist group Abu Sayyaf, Canadian Prime Minister Justin Trudeau firmly warned: "Canada does not — and will not — pay ransom to terrorists, directly or indirectly."³ Three years later, U.S. Secretary of State Mike Pompeo admonished the parents of Americans held abroad, "Please remember that any payment to a terrorist or a terrorist regime gives

money so that they can seize more of our people. We cannot accept that risk; you wouldn't ask that of us."⁴ Governments face an impossible hypothetical: What if the concessions made to free one hostage set the stage for future attacks? They are loath to show terrorists that hostage taking works.

And yet, these same countries make frequent concessions to hostile regimes that have arrested their citizens. In the last six years alone, Presidents Barack Obama and Donald Trump have made substantial concessions — offering prisoner swaps, diplomatic recognition, cash payment, and withdrawal of American troops — to bring imprisoned Americans home from Cuba, Egypt, Iran, North Korea, Syria, and Turkey.⁵ These prisoners might be caught up in

1 Stephen Collinson, "Nixon's Own 9/11: When Terrorism Came of Age," *CNN*, July 29, 2015, <https://www.cnn.com/2015/07/27/politics/terrorism-1970s-richard-nixon/index.html>.

2 "The President's News Conference," June 18, 1985, Ronald Reagan Presidential Library & Museum, accessed Sept. 29, 2021, <https://www.reagan-library.gov/archives/speech/presidents-news-conference-17>; "Remarks of Under Secretary David Cohen at Chatham House on 'Kidnapping for Ransom: The Growing Terrorist Financing Challenge,'" U.S. Department of the Treasury, Oct. 5, 2012, <https://www.treasury.gov/press-center/press-releases/pages/tg1726.aspx>; and Steven Swinford, "David Cameron Tells G8 Nations to Stop Paying Ransoms to Terrorists," *The Telegraph*, June 6, 2013, <https://www.telegraph.co.uk/news/worldnews/g8/10104374/David-Cameron-tells-G8-nations-to-stop-paying-ransoms-to-terrorists.html>.

3 Mitch Potter and Michelle Shephard, "Canada Does Not Negotiate with Terrorists. Except..." *Toronto Star*, Dec. 4, 2016, <https://www.thestar.com/news/canada/held-hostage/2016/12/04/canada-does-not-negotiate-with-terrorists-except-.html>.

4 Abigail Williams, "Pompeo to Families of Austin Tice, Other Americans Detained Abroad: Ransoms Aren't Worth Risk," *ABC News*, April 3, 2019, <https://www.nbcnews.com/politics/politics-news/pompeo-families-austin-tice-other-americans-detained-abroad-ransoms-aren't-worth-risk-990326>.

5 For Cuba, see Karen DeYoung, "Obama Moves to Normalize Relations with Cuba as American Is Released by Havana," *Washington Post*, Dec. 17, 2014, https://www.washingtonpost.com/world/national-security/report-cuba-frees-american-alan-gross-after-5-years-detention-on-spy-charges/2014/12/17/a2840518-85f5-11e4-a702-fa31ff4ae98e_story.html; for Egypt, see Michael D. Shear and Peter Baker, "American Aid Worker, Release Secured by Trump Officials, Leaves Egypt," *New York Times*, April 21, 2017, <https://www.nytimes.com/2017/04/21/us/politics/american-aid-worker-released-egypt-trump.html>; for Iran, see Saeed Kamali Dehghan, "Iran Releases Washington Post Journalist Jason Rezaian in Prisoner Swap with US," *The Guardian*, Jan. 16, 2016, <https://www.theguardian.com/world/2016/jan/16/iran-releases-washington-post-journalist-jason-rezaian>; for North Korea, see Alex Ward, "North Korea Has Just Released 3 American Hostages," *Vox*, May 9, 2018, <https://www.vox.com/2018/5/9/17333964/north-korea-hostages-release-trump>; for Syria, see Richard Pérez-Peña, "High-Level U.S. Mission to Syria Sought Release of American Prisoners," *New York Times*, Oct. 19, 2020, <https://www.nytimes.com/2020/10/19/world/middleeast/syria-prisoners-austin-tice.html>; and for Turkey, see Carlotta Gall, "Turkey Frees Pastor Andrew Brunson, Easing Tensions with U.S.," *New York Times*, Oct. 12, 2018, <https://www.nytimes.com/2018/10/12/world/europe/turkey-us-pastor-andrew-brunson.html>.

broad, ongoing negotiations, like former *Washington Post* Tehran Bureau Chief Jason Rezaian and other Americans who gained their freedom as part of the 2015 Joint Comprehensive Plan of Action.⁶ More often, however, states have targeted and arrested foreigners for use as standalone diplomatic leverage. Though exercised through a state's criminal justice system, these arrests aim to extort concessions, much like kidnapping would. This is "hostage diplomacy" — the taking of hostages under the guise of national law for diplomatic purposes — and it's becoming a favored tactic of Chinese foreign policy.⁷

Among other coercive measures,⁸ China uses the detention of foreign nationals or the threat thereof to force the hand of other countries and retaliate against what it perceives as hostile actions by those states. Chinese hostage diplomacy pressures democracies where it hurts the most: their citizenry. Over recent years and particularly since the adoption of counter-espionage and national security legislation in 2014 and 2015, China has arrested or threatened to arrest foreigners on national security grounds.⁹ While American citizens have been detained in the past, China has increasingly targeted the citizens of smaller countries, all close allies of the United States.

One recent case epitomizes China's turn to hostage diplomacy and the precarious situation it has created for American allies. In this article, we explore the international crisis over three prisoners — China's Meng Wanzhou and Canada's Michael Spavor and Michael Kovrig — who were used as pawns in a much bigger game. In addition to illustrating the turn to hostage diplomacy by China and

other states, the case of Meng and the "two Michaels" illuminates how creative negotiation strategies might be used by weaker democratic states to help bring captured citizens home. We show how the fate of these three individuals had implications for policy concerns ranging from Iran's nuclear program, to the adoption of 5G technology, to the future of the liberal international order.

Concessions to hostage takers are not made in a vacuum, and less powerful states are particularly constrained in their dealings with China. We are specifically interested in how countries like Australia, Canada, and Japan respond when their nationals are detained by Chinese authorities, as evidence suggests that those detentions are part of a larger game of chess between great powers.¹⁰ These countries are typically considered "middle powers," referring not only to the relative position of these states in the international order, but also to their ability to protect their core interests and to effect international change in support of the liberal international order.¹¹ These three countries all enjoy strong ties with the United States. As of late, however, they often find themselves caught between a rock and a hard place, having to manage their relationships with two great powers that are increasingly at odds with each other. This turn to coercive hostage diplomacy is particularly tricky for middle powers that are starting to directly experience the consequences of an eroding international liberal order.

Canada's recent quagmire with Chinese hostage diplomacy can shed light on changing international dynamics. As great-power competition intensifies, middle powers should rethink how they approach

6 As former *Washington Post* Tehran Bureau Chief Jason Rezaian depicts in his memoir, he and his wife Yeganeh Rezaian, as well as dual American-Iranian citizens Amir Hekmati and Saeed Abedini, were released from Iranian prison as part of the Iran deal negotiations. Also as part of the negotiations, the United States released several Iranians in U.S. custody for sanctions violations and agreed to pay a \$1.7 billion settlement to Iran. See Jason Rezaian, *Prisoner: My 544 Days in an Iranian Prison – Solitary Confinement, a Sham Trial, High-Stakes Diplomacy, and the Extraordinary Efforts It Took to Get Me Out* (New York: Anthony Bourdain/Ecco, 2019); and Danielle Gilbert, "No Concessions? A Closer Look at U.S. Hostage Recovery Policy," *War on the Rocks*, Feb. 27, 2019, <https://warontherocks.com/2019/02/no-concessions-a-closer-look-at-u-s-hostage-recovery-policy/>.

7 Hostage diplomacy does not include explicit cases of hostage taking, such as the seizure of the U.S. embassy in Tehran, nor does it include the detention of foreign citizens at the outbreak of a war, or regularized detention for unlawful immigration. This article defines hostage diplomacy as the detention of foreign nationals in times of peace and under the guise of national law as a way to gain leverage in the conduct of a country's foreign affairs.

8 Other coercive measures used by China include arbitrary executions, restrictions on official travel, investment restrictions, trade restrictions, tourism restrictions, popular boycotts, and pressure on specific companies. Fergus Hanson, Emilia Currey and Tracy Beattie, "The Chinese Communist Party's Coercive Diplomacy," Australia Strategic Policy Institute, Policy Brief Report No. 36, 2020, 7–10. <https://www.aspi.org.au/report/chinese-communist-partys-coercive-diplomacy>.

9 Kyodo, "Japanese Man Detained in China Since July on Possible Espionage Charge," *South China Morning Post*, Nov. 27, 2019, <https://www.scmp.com/news/asia/east-asia/article/3039590/japanese-man-detained-china-july-possible-espionage-charge>.

10 "Factbox: Foreigners Held in China on National Security Grounds," *Reuters*, Aug. 27, 2019, <https://www.reuters.com/article/us-china-australia-writer-factbox-idUSKCN1VH0IJ>.

11 Andrew Carr defines middle powers as "states that can protect their core interests and initiate or lead change in a specific aspect of the existing international system." Andrew Carr, "Is Australia a Middle Power? A Systemic Impact Approach," *Australian Journal of International Affairs* 68, no.1 (2014): 79, <https://doi.org/10.1080/10357718.2013.840264>. See also Adam Chapnick, "Middle Power No More? Canada in World Affairs Since 2006," *Seton Hall Journal of Diplomacy and International Relations* 14, no. 2 (2013): 102, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/whith14&div=23&id=&page>; and Matthew Stephen, "The Concept and Role of Middle Powers During Global Rebalancing," *Seton Hall Journal of Diplomacy and International Relations* 14, no. 2 (2013): 37–38, <https://heinonline.org/HOL/LandingPage?handle=hein.journals/whith14&div=19&id=&page>.

foreign policy and diplomacy. To avoid getting stuck between a rising China and a United States that is having to recalibrate its foreign policy to face a peer competitor,¹² and in order to protect Canada's national interests and citizenry, a more agile, pragmatic approach is required. Chinese hostage diplomacy is a challenge from which Canada and other middle powers can learn to level the playing field in their dealings with adversarial powers.

What Is Hostage Diplomacy?

"Hostage diplomacy" occurs when a state deploys its criminal justice system to detain a foreigner and then uses the prisoner for leverage in the pursuit of foreign policy objectives. This form of coercion occupies an ill-defined middle ground between legitimate arrests and prosecutions on one side, and illicit kidnapping on the other. The early stages of hostage diplomacy resemble lawful detention: The state arrests a foreigner for suspected criminal wrongdoing, often espionage. The accused is detained and formally charged. However, the pretense soon falls away. Hostage diplomacy ends with the state negotiating for the prisoner's release through a series of diplomatic or economic concessions. Along the way, the accused transitions from prisoner to bargaining chip.

Legally, the victims of hostage diplomacy are detainees. Functionally, they are hostages. This inherent duality makes hostage diplomacy particularly striking — and difficult to counter — because of the ways it blurs established categories of detention, norms of state behavior, and the rule of law. Several members of the U.S. Congress have attempted to clarify these blurry categories by defining when a detainee held abroad should be viewed as a hostage. According to the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act,¹³ international detentions may be deemed unlawful and qualify for diplomatic attention if

the individual is being detained solely or substantially because he or she is a United States national; the individual is being detained solely or substantially to influence United States Government policy or to secure economic or political concessions from the United States Government; [or] the United States mission in the country where the individual is being detained has received credible reports that the detention is a pretext for an illegitimate purpose.

In recent years, the U.S. government has occasionally elided the distinction between the victims of kidnappings and unlawful detentions, suggesting that officials see hostage diplomacy as a form of hostage taking. For instance, in 2015, the Obama administration created a senior office at the State Department to represent the U.S. government on all hostage-related matters. The special presidential envoy for hostage affairs shall:

(1) lead diplomatic engagement on U.S. hostage policy; (2) coordinate all diplomatic engagements in support of hostage recovery efforts, in coordination with the [Hostage Recovery Fusion Cell] and consistent with policy guidance...; and (5) in coordination with the [Hostage Recovery Fusion Cell] as appropriate, *coordinate diplomatic engagements regarding cases in which a foreign government confirms that it has detained a U.S. national but the United States Government regards such detention as unlawful or wrongful* [emphasis added].¹⁴

In 2019, when Trump tweeted about his record as "the greatest hostage negotiator ... in the history of the United States," who secured the release of "20 hostages," he was referring exclusively to American detainees released from foreign prisons.¹⁵ Rightly or wrongly, the U.S. government has conflated the

12 If Obama's decision to "lead from behind" and Trump's "America First" foreign policy both meant the United States took a back seat on the world stage — although in very different ways and with different consequences for U.S. leadership — the Biden administration is now attempting to get back in the driver's seat. See Robert Jervis, et al., eds., *Chaos in the Liberal Order: The Trump Presidency and International Politics in the Twenty-First Century* (New York: Columbia University Press, 2018); and Heather Hurlburt, "Inside Joe Biden's Foreign-Policy Worldview," *Foreign Policy*, Jan. 15, 2021, <https://foreignpolicy.com/2021/01/15/joe-biden-foreign-policy-relationships-united-states/>.

13 Introduced by Sen. Robert Menendez in March 2019, this bill passed the Senate in June 2020 and was signed into law in late 2020. See "Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act," Senate Foreign Relations Committee, S.712, 116th Congress, 2019–2020, <https://www.congress.gov/bill/116th-congress/senate-bill/712>. The legislation outlines further criteria to qualify an international detention as unlawful, related to the behavior of the accused and the credibility of the country's justice system.

14 "Presidential Policy Directive – Hostage Recovery Activities," The White House, Office of the Press Secretary, June 24, 2015, <https://obamawhitehouse.archives.gov/the-press-office/2015/06/24/presidential-policy-directive-hostage-recovery-activities>.

15 Danielle Gilbert, "Trump Claims He's the Greatest Hostage Negotiator Ever. So Why Did He Make It Harder to Bring Americans Home?" *Washington Post*, April 29, 2019, <https://www.washingtonpost.com/politics/2019/04/29/trump-claims-hes-greatest-hostage-negotiator-ever-so-why-did-he-make-it-harder-bring-americans-home/>.



victims of state and nonstate captivity.¹⁶

Hostage diplomacy follows the logic of hostage taking, which is defined as “the seizing or detention of an individual coupled with a threat to kill, injure or continue to detain such individual in order to compel a third person or governmental organization to take some action.”¹⁷ Hostage diplomacy can be considered a form of hostage taking because it uses protracted human captivity to compel concessions from other countries. These state-led detentions are simply hostage takings that have been executed under the color and guise of the law.

Hostage diplomacy shares several central characteristics with hostage taking. In hostage taking, the victims and the targets are separate persons, which generates leverage: “[T]he target is the primary intended audience of the violence whose be-

The perpetrator holds the captive as leverage to improve its bargaining position, coerce concessions, and attract widespread attention. In hostage diplomacy cases, these demands are not always made public or explicit. Instead, they are often implied.

Using a captive for leverage is especially effective for two reasons. First, hostage taking can represent a bilateral monopoly, a false market in which there is only one buyer (the target) and one seller (the perpetrator).²² In other words, the target cannot take its recovery business elsewhere to protest the perpetrator’s price. This drives up the price of the hostage taker’s demands, while the target has only two options: make concessions, or accept that the victim will suffer. Second, hostage-taking cases are remarkably effective at capturing audience attention. As Danielle Gilbert has argued, hostage-taking incidents drive outsized

media attention because they feature individual victims.²³ According to what is known as the “collapse of compassion,” “as the number of people in need of help increases, the degree of compassion people feel for them ironically tends to decrease.”²⁴ Practically, this suggests that cases of indi-

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vidual prisoners are capable of becoming — and remaining — major national news stories. This kind of public attention to a victim’s plight is especially relevant in democracies, where leaders depend on public approval to remain in office and may be seen as directly responsible for the captive’s fate.

havior the violence against the victim is intended to change... The *victim* is the hostage, while the *target* is the recipient of the demands, who has the power to make concessions or not.”¹⁸ The threat of further violence against the victim is conditional — violence that Thomas Schelling called “avoidable by accommodation,”¹⁹ or preventable by adopting the desired changes in behavior.²⁰ As hostage takings are accompanied by a conditional demand of a third-party target, there must be assurances that satisfaction of the demands would prompt the hostage’s release.²¹

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Nevertheless, there are several important factors that differentiate hostage diplomacy from other forms of hostage taking. For most forms of hostage taking, the perpetrator is a nonstate actor, such as a terrorist or criminal. In hostage diplomacy,

16 Conversely, Canada and the United Kingdom draw a bright line between nonstate actor kidnapping and state detentions. For example, while the former is handled by Global Affairs Canada’s (GAC) Task Force on International Critical Incidents in GAC’s Intelligence Bureau, the consular section at GAC handles all state detentions.

17 “Hostage Taking (18 U.S.C. 1203),” U.S. Department of Justice Archives, accessed Oct. 19, 2021, <https://www.justice.gov/archives/jm/criminal-resource-manual-11-hostage-taking-18-usc-1203>.

18 Danielle Gilbert, “The Logic of Coercive Kidnapping,” PhD Dissertation, 2020, 6. Also see Stathis N. Kalyvas, *The Logic of Violence in Civil War* (Cambridge, UK: Cambridge University Press, 2006).

19 Thomas C. Schelling, *Arms and Influence* (New Haven, CT: Yale University Press, 1966), 2.

20 As prior work in this journal has argued, coercion’s centrality to contemporary social science owes to Schelling’s 1966 *Arms and Influence*, which focuses on threats, violent communication, and the power to hurt. See Tami Davis Biddle, “Coercion Theory: A Basic Introduction for Practitioners,” *Texas National Security Review* 3, no. 2 (Spring 2020): 94–109, <http://dx.doi.org/10.26153/tsw/8864>.

21 Schelling, *Arms and Influence*.

22 John Nash, “The Bargaining Problem,” *Econometrica* 18, no. 2 (April 1950): 155–62, <https://doi.org/10.2307/1907266>.

23 Danielle Gilbert, “The Oxygen of Publicity: Explaining U.S. Media Coverage of International Kidnapping,” *Studies in Conflict & Terrorism* (2020), <https://doi.org/10.1080/1057610X.2020.1792723>.

24 D.C. Cameron and K.B. Payne, “Escaping Affect: How Motivated Emotion Regulation Creates Insensitivity to Mass Suffering,” *Journal of Personality and Social Psychology* 100, no. 1 (2011): 1, <http://dx.doi.org/10.1037/a0021643>.

the perpetrator — like the target — is a state. The rhetorical distinction between “hostages” and “detainees” goes beyond semantics. There are legal and practical implications that, in theory, separate these categories.²⁵ Specifically, the government’s means for recovering someone held by state versus nonstate actors differ dramatically. The fact that state actors have a “return address” makes recovery easier in some ways but more challenging in others. Current U.S. law, for instance, explicitly prohibits paying ransoms to actors that have been designated as foreign terrorist organizations by the U.S. Department of State,²⁶ but there is no prohibition on paying ransoms (or making any other type of concession) to state actors. States can also use legal measures, including extradition, to bring detainees home. Conversely, a central mission set of special operations commands in the United States and Canada is executing hostage rescue — an acceptable recovery option for kidnap victims, but practically off the table for detainees.²⁷ In any case, hostage rescue operations are highly risky, specifically because the safe recovery of a civilian hostage under guard involves a high degree of precision.²⁸

The most notorious perpetrators of hostage diplomacy are authoritarian states with both the capacity and intent to use their justice system for foreign policy leverage.²⁹ It has become a frequent practice in Iran, Venezuela, North Korea, Turkey, and China. While Iran and Turkey have not hesitated to target American citizens, China has focused on three middle powers closely aligned with the United States: Australia, Canada, and Japan.³⁰ As a tactic, hostage diplomacy is particularly nefarious in that it uses the pretense of a legal process and

puts countries committed to the rule-based international order in a vulnerable position. It violates fundamental principles of the rule of law to which Canada and other Western middle powers are so attached. Their expectation of reciprocity — that other countries will abide by a set of rules and norms — makes these countries particularly vulnerable to countries that are willing to cheat.

Yet, democratic countries have also been accused of arresting foreigners in the pursuit of foreign policy leverage, i.e., of using hostage diplomacy themselves. For instance, *Le piège américain*, or *The American Trap*, a memoir by former French energy executive Frédéric Pierucci, details his experience being arrested in New York for violating the U.S. Foreign Corrupt Practices Act.³¹ Charges against Pierucci included wire fraud and money laundering. He has since pleaded guilty to one count of conspiracy to violate the act and one count of violating it.³² The book’s Mandarin translation has become a bestseller in China for its comparison to the case of Meng Wanzhou and the unsubstantiated implication that the United States uses the same coercive foreign policy tactics.³³

Chinese Hostage Diplomacy in Context

As a September 2020 U.S. State Department travel advisory warns, “The PRC [People’s Republic of China] government arbitrarily enforces local laws, including by carrying out arbitrary and wrongful detentions and through the use of exit bans on U.S. citizens and citizens of other countries without due process of law.”³⁴ The warning

25 Danielle Gilbert, “Trump Claims He’s the Greatest Hostage Negotiator Ever. So Why Did He Make It Harder to Bring Americans Home?” *Washington Post*, April 29, 2019, <https://www.washingtonpost.com/politics/2019/04/29/trump-claims-hes-greatest-hostage-negotiator-ever-so-why-did-he-make-it-harder-bring-americans-home/>.

26 “Providing Material Support to Designated Terrorist Organizations (Fundraising) (18 U.S. Code 2239B),” U.S. Department of Justice Archives, accessed Oct. 19, 2021, <https://www.justice.gov/archives/jm/criminal-resource-manual-16-providing-material-support-designated-terrorist-organizations>.

27 “Mandate of the Special Operations Forces,” Government of Canada, accessed Oct. 19, 2021, <https://www.canada.ca/en/special-operations-forces-command/corporate/mandate.html>.

28 Public records suggest that between 2001 and 2015, U.S. Special Forces attempted to rescue 33 Americans held hostage abroad. Only four were successfully recovered, while five were killed during the rescue missions. See Danielle Gilbert and Lauren Prather, “No Man Left Behind? Hostage Deservingness and the Politics of Hostage Recovery,” working paper (2021), online at laurenprather.org.

29 Gilbert, “No Concessions? A Closer Look at U.S. Hostage Recovery Policy,” *War on the Rocks*, Feb. 27, 2019, <https://warontherocks.com/2019/02/no-concessions-a-closer-look-at-u-s-hostage-recovery-policy/>.

30 Michael Schuman, “China Discovers the Limits of Its Power,” *The Atlantic*, July 28, 2021, <https://www.theatlantic.com/international/archive/2021/07/china-australia-america/619544/>.

31 Frédéric Pierucci and Matthieu Aron, *Le piège américain* (Paris : JC Lattès, 2019).

32 Henri Astier, “Jailed French executive who felt force of US bribery law,” *BBC News*, April 24, 2019, <https://www.bbc.com/news/world-europe-47765974>.

33 Adam Taylor and Liu Yang, “An Unlikely Winner in the China-U.S. Trade War? A French Businessman’s Book About His Battle with the DOJ,” *Washington Post*, June 8, 2019, <https://www.washingtonpost.com/world/2019/06/07/an-unlikely-winner-china-us-trade-war-french-businessmans-book-about-his-battle-with-doj/>.

34 Likewise, the Canadian government cautions travelers to “Exercise a high degree of caution in China due to the risk of arbitrary enforcement of local laws.” Interestingly enough, the wording is not as strong as in the U.S. travel advisory, which might be a good reflection of the difficult position in which Canada finds itself. “China,” Government of China, Oct. 21, 2021, <https://travel.gc.ca/destinations/china>.

asserts that China uses “arbitrary detention and exit bans” to pressure individuals with dual citizenship to cooperate with the government and to “gain bargaining leverage over foreign governments.”³⁵ While the former is a problem for individual rights to free speech, the latter presents a specific problem for other countries dealing with an adversarial Chinese foreign policy.

Indeed, by delivering threats to the United States, China has revealed that it uses detention for leverage. In October 2020, Chinese officials threatened to detain Americans living in China, unless the United States backed off its plans to prosecute Chinese military officials charged with entering the United States on false visas. In doing so, they publicly threatened to knowingly arrest innocent Americans, explicitly using their judicial system for leverage in foreign policy disputes.³⁶ Such conditional threats reveal that China views the arrests as retaliation — a tit-for-tat form of foreign policy leverage. In response, John Demers, the head of the Justice Department’s national security division told the *Wall Street Journal*:

We are aware that the Chinese government has, in other instances, detained American, Canadian and other individuals without legal basis to retaliate against lawful prosecutions and to exert pressure on their governments, with a callous disregard of the individuals involved. If China wants to be seen as one of the world’s leading nations, it should respect the rule of law and stop taking hostages.³⁷

While news reports have heralded the rise of Chinese hostage diplomacy, it is actually a tactic that Beijing has used for decades.³⁸ A similar standoff during the Cultural Revolution pitted

the United Kingdom against China in a two-year hostage diplomacy crisis. In July 1967, British authorities in Hong Kong arrested Xue Ping of the *New China News Agency* for “illegal assembly and inflammatory propaganda.”³⁹ In response, Beijing arrested Anthony Grey, British correspondent for *Reuters* in China. In retaliating through arrests, both countries revealed the arbitrary nature of hostage diplomacy. The tit-for-tat escalated from there: The British government arrested the owners of three Chinese newspapers; Chinese Red Guard paramilitaries burned the office of the British chargé d’affaires in Beijing; and both countries denied exit visas to the other’s foreign diplomats working in their capitals.⁴⁰ These restrictions, violating longstanding norms regarding foreign diplomats,⁴¹ paled in comparison to the treatment of Grey, who was held for months in solitary confinement in a room that was 12-foot square.⁴²

In attempting to negotiate its citizens’ release, the United Kingdom faced similar challenges to what countries dealing with Chinese hostage diplomacy face today. British diplomats wavered between attempting to link the fate of all of the hostages in one negotiation, making unilateral concessions, or sticking to a series of reciprocal piecemeal concessions. Ultimately, as Chi-Kwan Mark writes, the United Kingdom was met with three challenges in charting its path. First, it had trouble discerning Chinese intentions. Second, it knew China could afford to wait out the confrontation, in a way the British public would not allow. And third, it was determined to keep the hostage negotiations separate from broader U.K.-Chinese relations. Mark writes, “Even at the lowest point, both the British and to a lesser extent the Chinese were prepared to separate the hostage question from other issues in their relationship.”⁴³

Some states seem to be particularly vulnerable

35 “China Travel Advisory, June 16, 2021,” U.S. Department of State, Bureau of Consular Affairs, <https://travel.state.gov/content/travel/en/traveladvisories/traveladvisories/china-travel-advisory.html>.

36 We are grateful to an anonymous reviewer for emphasizing this point.

37 Kate O’Keeffe and Aruna Viswanatha, “China Warns U.S. It May Detain Americans in Response to Prosecutions of Chinese Scholars,” *Wall Street Journal*, Oct. 17, 2020, <https://www.wsj.com/articles/china-warns-u-s-it-may-detain-americans-in-response-to-prosecutions-of-chinese-scholars-11602960959>.

38 Joshua Berlinger, “Second Canadian detained in China as diplomatic spat intensifies,” *CNN*, Dec. 13, 2018, <https://www.cnn.com/2018/12/12/asia/canada-china-spavor-intl/index.html>; Donald Clarke, “Opinion: China Is Holding Two Canadians as Hostages. It’s Not Even Denying It,” *Washington Post*, Dec. 17, 2018, <https://www.washingtonpost.com/opinions/2018/12/17/china-is-holding-two-canadians-hostages-its-not-even-denying-it/>; and Edward Wong, “China Holds Third Canadian, Escalating Diplomatic Crisis with the United States,” *New York Times*, Dec. 19, 2018, <https://www.nytimes.com/2018/12/19/us/politics/china-canada-huawei.html>.

39 Chi-Kwan Mark, “Hostage Diplomacy: Britain, China, and the Politics of Negotiation, 1967–1969,” *Diplomacy & Statecraft* 20, no. 3 (2009): 474, <https://doi.org/10.1080/09592290903293803>.

40 Mark, “Hostage Diplomacy,” 479.

41 The 1961 Vienna Convention on Diplomatic Relations protects diplomatic property and personnel. China did not become a signatory until 1975. See G. R. Berridge, *Diplomacy: Theory and Practice*, 3rd ed. (London: Basingstoke, 2005), 115–18.

42 Mark, “Hostage Diplomacy,” 488.

43 Mark, “Hostage Diplomacy,” 490.

to these challenges. Although the United States could very well be targeted by China's hostage diplomacy, so far, China has chosen to target citizens from less powerful U.S. allies, like Australia, Canada, and Japan. The choice to arrest citizens from this specific group of middle powers suggests two features of China's approach to hostage diplomacy. First, Beijing does not fear consequences from targeting these middle powers. Instead, it may view these arrests as a particular show of Chinese resolve.⁴⁴ Second, Beijing may see these arrests as an effective and indirect way to confront Washington, by targeting its close allies and daring them to undermine the rules-based international order.

China's ongoing confrontation with Australia offers an instructive example of Beijing's focus on middle powers. After a series of confrontations over the South China Sea, foreign influence in elections, Huawei 5G technology, and the coronavirus outbreak, Beijing suspended Australian export licenses and imposed punitive tariffs.⁴⁵ According to former Australian Prime Minister Malcolm Turnbull, Chinese leaders "are trying to make an example of us."⁴⁶ As the former Beijing bureau chief of the *Financial Times* emphasized, China's choice to target U.S. allies is intentional: "China can't bash up on the U.S., but it can bash up on its allies. If China can break Australia, then that's a step to breaking U.S. power in Asia, and U.S. credibility globally."⁴⁷

The "Two Michaels" and Meng Wanzhou

In December 2018, the Canadian government arrested Meng Wanzhou, the chief financial officer of Chinese telecom giant Huawei Technologies and daughter of the company's founder.⁴⁸ Meng was arrested in Vancouver at the request of the United States, based on allegations that she had violated Iran sanctions and committed bank fraud.⁴⁹ Less than a week later, the Chinese government arrested two Canadian citizens living in China — former diplomat Michael Kovrig and businessman Michael Spavor — who have come to be known as the "two Michaels."⁵⁰ Only after the Canadian Justice Department authorized Meng's extradition hearing in March 2019, commencing her extradition process to the United States, did China charge the Michaels with espionage — an unsubstantiated charge, which carries a possible death sentence.⁵¹

On Sept. 25, 2021, after almost three years of stalemate, the U.S. Justice Department reached a deal with Meng: In exchange for her entering a deferred prosecution agreement, the United States dropped its charges and recommended that Canada release her. Hours later, Trudeau announced that the two Michaels were coming home.⁵² As the Canadian prime minister privately greeted the visibly weakened Spavor and Kovrig on the tarmac at the Calgary international airport, Meng was welcomed home with much fanfare. Canadian, Chinese, and American officials all denied that the two cases — and their outcomes — were connected.⁵³ Beijing instead claimed the two Michaels were released for health reasons.⁵⁴

44 Stephen M. Walt, "Why 'Hostage Diplomacy' Works," *Foreign Policy*, Feb. 17, 2021, <https://foreignpolicy.com/2021/02/17/why-hostage-diplomacy-works/>.

45 For a detailed account of these disputes and how they relate to one another, see Michael Schuman, "China Discovers the Limits of Its Power," *The Atlantic*, July 28, 2021, <https://www.theatlantic.com/international/archive/2021/07/china-australia-america/619544/>.

46 Schuman, "China Discovers the Limits of Its Power."

47 Schuman, "China Discovers the Limits of Its Power."

48 Tracy Sherlock and Dan Bilefsky, "Extradition of Huawei Executive Clears a Major Legal Hurdle in Canada," *New York Times*, May 27, 2020, <https://www.nytimes.com/2020/05/27/world/canada/huawei-extradition-meng-wanzhou.html>.

49 Tessa Vikander, "Meng Wanzhou's U.S. Extradition Case Is Mainly About Fraud, not Violating Iran Sanctions: Canadian Prosecutors," *National Post*, Jan. 22, 2020, <https://nationalpost.com/news/canada/meng-wanzhou-u-s-extradition-case-is-mainly-about-fraud-not-violating-iran-sanctions-canadian-prosecutors>; Ellen Nakashima and Devlin Barrett, "Justice Dept. Charges Huawei with Fraud, Ratcheting Up U.S.-China Tensions," *Washington Post*, Jan. 29, 2019, https://www.washingtonpost.com/world/national-security/justice-dept-charges-huawei-with-fraud-ratcheting-up-us-china-tensions/2019/01/28/70a7f550-2320-11e9-81fd-b7b05d5bed90_story.html.

50 Chris Buckley and Catherine Porter, "China Accuses Two Canadians of Spying, Widening a Political Rift," *New York Times*, March 4, 2019, <https://www.nytimes.com/2019/03/04/world/asia/china-canada-michael-kovrig-huawei.html>.

51 Javier C. Hernández and Catherine Porter, "China Indicts 2 Canadians on Spying Charges, Escalating Dispute," *New York Times*, June 19, 2020, updated Sept. 24, 2021, <https://www.nytimes.com/2020/06/19/world/asia/china-canada-kovrig-spavor.html>.

52 Amanda Coletta, "China's 'Hostage Diplomacy' Standoff with Canada Is Over. But How Much Damage Was Done?" *Washington Post*, Sept. 25, 2021, <https://www.washingtonpost.com/world/2021/09/25/canada-china-meng-michaels/>.

53 Helen Davidson, "China's Act of 'Hostage Diplomacy' Comes to End as Two Canadians Freed," *The Guardian*, Sept. 25, 2021, <https://www.theguardian.com/world/2021/sep/25/canadian-pm-trudeau-says-detained-citizens-michael-kovrig-and-michael-spavor-have-left-china>; and Alex Gangitano, "White House Says 'No Link' Between Release of Huawei Exec and 'Two Michaels,'" *The Hill*, Sept. 27, 2021, <https://thehill.com/home-news/administration/574129-white-house-says-no-link-between-release-of-huawei-exec-and-two>.

54 "China Claims Kovrig, Spavor Freed for Health Reasons," *CBC*, Sept. 27, 2021, <https://www.cbc.ca/news/politics/china-kovrig-spavor-health-1.6190609>.

The treatment of the two Michaels and Meng during their respective detentions stands in sharp contrast. The two men were held for more than 1,000 days without regular access to consular or legal services, at times in solitary confinement.⁵⁵ Meng, meanwhile, was under house arrest in one of her multimillion-dollar mansions in Vancouver — reading, painting, and occasionally leaving her residence with a security detail — while her lawyers were contesting her extradition in a painfully slow judicial process.⁵⁶

In fact, some observers suggested that the defense might have purposefully tried to prolong the extradition process, which in turn gave Beijing the justification to continue to detain the two Michaels. In April 2021, Meng's legal team managed to further delay the extradition case by three months. Although the decision itself would ultimately fall to the Canadian justice minister, these delays, combined with slow Canadian judicial procedures, meant the court could take many more months before ruling whether Meng could be extradited to stand trial in the United States.⁵⁷ In sharp contrast, as Meng's lawyers returned to court in August 2021 to present their final argument, a Chinese court convicted Spavor of "spying and illegal provision of state secrets" during closed-door proceedings and sentenced him to 11 years in prison.⁵⁸ Kovrig's trial for espionage wrapped up in March 2021, but the verdict never came.⁵⁹ The synchronism between the cases of Meng and the two Michaels became obvious, suggesting realpolitik considerations might well have been behind Beijing's arrest and trial of Kovrig and Spavor, rather than national security concerns.

Beyond the close timing of Meng's and the Michaels' arrests and legal proceedings, the prisoners

seem to have represented what scholars of coercion would call "connectedness" — a clear link, whether physical or symbolic, between a demand and the punishment applied. Schelling offers two reasons for making connected threats. First, it "helps to communicate the threat itself," removing uncertainty about demands and punishments. Second, it helps keep coercion from spiraling out of control:

[If] the object is to induce compliance and not to start a spiral of reprisals and counteractions, it is helpful to show the limits to what one is demanding, and this can often be best shown by designing a campaign that distinguishes what is demanded from all the other objectives that one might have been seeking but is not.⁶⁰

The connection between the detentions suggests that Canada could have secured the Michaels' release by releasing Meng. As the outcome suggests, no further concessions or policy changes were expected. Nevertheless, the demand for an exchange was ambiguous and insinuated, rather than explicit: The Chinese ambassador to Canada referred to the arrests of the Michaels as an act of "self-defense,"⁶¹ but rejected the idea that their detention was a coercive diplomatic measure.⁶² Nonetheless, it has become quite clear that China used Canada's commitment to the rule of law to its own advantage. By prolonging Meng's extradition proceedings, they exploited the cumbersome and saturated Canadian legal system. The resulting delay gave China ammunition to prolong the detention of the two Michaels despite a clear lack of transparency on both evidence supporting the charges and ensuing judicial processes.

55 Paul James and Renee Bernard, "Two Michaels' Given Consular Access, Canada's Former Ambassador to China Still Skeptical," *City News*, Oct. 11, 2020, <https://www.citynews1130.com/2020/10/11/two-michaels-consular-access-china/>.

56 Kim R. Nossal, "Wrong Place, Wrong Citizenship: The Tribulations of the Two Michaels," Kim Richard Nossal, Jan. 19, 2021, <https://nossalk.org/2021/01/19/wrong-place-wrong-citizenship-the-tribulations-of-the-two-michaels/>; and Amanda Coletta, "Time to Read and Paint : Detained Huawei Executive Pens Poetic Letter from House Arrest," *Washington Post*, Dec. 2, 2019, https://www.washingtonpost.com/world/the_americas/time-to-read-and-paint-detained-huawei-executive-pens-poetic-letter-from-house-arrest/2019/12/02/a8d9f83e-1531-11ea-80d6-d0ca7007273f_story.html.

57 Jeff Semple, "What to Expect from the Meng Wanzhou Extradition Ruling," *Global News*, Aug. 22, 2021, <https://globalnews.ca/news/8132989/what-to-expect-from-meng-wanzhou-extradition-ruling/>; Clare Duffy, "Huawei CFO Meng Wanzhou's Extradition Hearings Have Finally Wrapped Up. The Case Isn't Over Yet," *CNN Business*, Aug. 19, 2021, <https://www.cnn.com/2021/08/19/business/meng-wanzhou-huawei-extradition-canada-intl-hnk/index.html>.

58 Helen Davidson and Leyland Cecco, "Michael Spavor Trial: China Court Sentences Canadian to 11 years for Spying," *The Guardian*, Aug. 11, 2021, <https://www.theguardian.com/world/2021/aug/11/michael-spavor-verdict-canada-china-trial-court>.

59 Thomson Reuters, "Trial of Michael Kovrig Concludes with Verdict to Come Later, Chinese Court Says," *CBC News*, March 21, 2021, <https://www.cbc.ca/news/world/trial-michael-kovrig-china-1.5958648>.

60 Thomas C. Schelling, "Deterrence and Compellence," in *The Use of Force: Military Power and International Politics*, ed. Robert J. Art and Kelly M. Greenhill, 8th ed. (Lanham, MD: Rowman & Littlefield Publishing Group, Inc), 26.

61 Rob Gillies, "China Ambassador Accuses Canada and Allies of Racism," *Associated Press*, Jan. 9, 2019, <https://apnews.com/article/68a6d-0043c77428ab70d2edc7e6deb39>.

62 Tonda MacCharles, "China's Ambassador Escalates War of Words with Ottawa, Warning of Possible 'Forceful Measures,'" *Toronto Star*, Oct. 15, 2020, <https://www.thestar.com/politics/federal/2020/10/15/chinas-envoy-in-ottawa-denies-mistreatment-of-two-canadian-detainees-and-sends-a-warning-to-canada.html>.



The case caused political strain in Canada. Trudeau rejected calls to halt extradition procedures and release Meng in exchange for Spavor and Kovrig, an option supported by a majority of Canadians.⁶³ Trudeau argued that his government was using a wide range of public and private measures, relying on the expertise Canada had developed in recent years in the realm of hostage recovery.⁶⁴ Opposition parties criticized this approach, which they mostly saw as seeking to appease China.⁶⁵ In 2019, they forced the Liberal minority government to accept the creation of a special parliamentary committee on Canadian-Chinese relations to “examine and review all aspects of the Canada-China relationship, including, but not limited to, consular, economic, legal, security and diplomatic relations.”⁶⁶

In June 2020, after the two Michaels were charged with espionage, a group of senators asked the government to impose sanctions on Chinese officials.⁶⁷

Sept. 5, 2021, marked the 1,000th day of Spavor and Kovrig’s detention. As Canada was in the middle of a federal electoral campaign, this milestone drew attention to the issue on the campaign trail. Trudeau, seeking a third mandate, reiterated his resolve in solving the impasse. While friends and relatives of the two Michaels marched in Ottawa to demand their release, Conservative leader Erin O’Toole once again criticized the incumbent government and promised to take a harder stand against China.⁶⁸ It is worth noting that the Conservative Party of Canada’s platform proposed several foreign policy measures in response to China’s co-

63 Levon Sevunts, “Majority of Canadians Support Trudeau’s Refusal to Swap Meng for Two Michaels,” *Radio-Canada International*, June 29, 2020, <https://www.rcinet.ca/en/2020/06/29/majority-of-canadians-support-trudeaus-refusal-to-swap-meng-for-two-michaels/>.

64 Jordan Press, “PM Trudeau ‘Very Disappointed’ Over China Charging Two Canadians,” *CTV News*, June 19, 2020, <https://www.ctvnews.ca/canada/pm-trudeau-very-disappointed-over-china-charging-two-canadians-1.4991056>.

65 John Paul Tasker, “Scheer Says Canada Has Been Following ‘a Policy of Appeasement’ with China,” *CBC*, May 19, 2020, <https://www.cbc.ca/news/politics/andrew-scheer-china-trudeau-appeasement-1.5575350>.

66 “Special Committee on Canada-China Relations,” Parliament of Canada, House of Commons, accessed Oct. 19, 2021, <https://www.ourcommons.ca/Committees/en/CACN>.

67 John Paul Tasker, “Senators Call for Magnitsky Act Sanctions on Chinese Officials to Punish ‘Tyrannical Behaviour,’” *CBC*, June 24, 2020, <https://www.cbc.ca/news/politics/canada-china-sanctions-magnitsky-1.5625423>.

68 Christian Paas-Lang, “Families Mark 1,000 Days Since China’s Detention of Canadians Spavor, Kovrig,” *CBC News*, Sept. 5, 2021, <https://www.cbc.ca/news/politics/1000-days-detention-kovrig-spavor-1.6165470>.

ercive diplomacy measures, while the Liberal Party's platform did not mention China.⁶⁹ Yet, the two Michaels were released a few days after the re-election of Trudeau's Liberal Party — the Michaels' return was the first major event after the election.⁷⁰

As the crisis unfolded, the Trudeau government showed a preference for silence that many viewed as inaction, a perception reinforced by certain events. In some instances, it even seemed like Ottawa chose to split from its traditional partners to appease China. For example, in April 2021, *Politico* reported that the Canadian government went as far as initially threatening to walk away from the 2021 Halifax International Security Forum after the selection committee decided to award the John McCain Prize For Leadership In Public Service to Taiwanese President Tsai Ing-wen.⁷¹ The John McCain Prize is awarded every year to "individuals ... who have demonstrated uncommon leadership in the pursuit of human justice."⁷² The minister of defense denied withholding funds over the award in front of the House of Commons' Special Committee on Canada-China Relations.⁷³ A few days later, the House of Commons unanimously passed a motion backing the Halifax Security Forum's decision to honor Taiwan's president, who is still set to receive the prize in November 2021.⁷⁴ Nonetheless, if *Politico*'s allegations were founded, Ottawa's initial reaction was likely driven by a fear of reprisal from Beijing.

Beyond Parliament Hill, prominent public figures, including a former Canadian supreme court justice, a former senator, a former political party leader, and multiple previous foreign affairs

ministers, called on the Canadian government to release Meng in a bid to secure the Michaels' release.⁷⁵ In a letter to the prime minister, they cited a 1999 amendment to the law implementing Canada's extradition treaties that grants the federal minister of justice the discretion to intervene in an ongoing extradition case. On the other side, some scholars, experts, and former diplomats warned against releasing Meng.⁷⁶ They suggested it would lead to dire consequences for Canada's future dealings with China (as well as other authoritarian states) by setting a precedent of giving in to bullying. In the words of Amy Sommers, a retired international lawyer, "It will put a bullseye on the backs of foreign nationals who are present in China anytime their governments seek to take a position that is anathema to how China views its interests."⁷⁷ These skeptics also cautioned against ignoring the extradition treaty, both because of its consequences for an independent judiciary and the likelihood it would hurt Canada's relationship with the United States. This camp worried at the time about causing a short-term rift with the Trump administration as well as causing long-term damage to relations with Canada's most powerful ally. Complicating the situation, Trump suggested that he would be willing to intervene in Meng's case if he thought it necessary, in order to make a trade deal with China.⁷⁸

In any case, the crisis undermined Canadian public opinion toward China, a perception that is likely to endure well beyond the return of the two Michaels.⁷⁹ A recent poll shows that 75 percent of Ca-

69 Terry Glavin, "What the Winner of This Election Must Do About China, Meng and the Two Michaels," *Maclean's*, Sept. 4, 2021, <https://www.macleans.ca/politics/worldpolitics/what-the-winner-of-this-election-must-do-about-china-meng-and-the-two-michaels/>.

70 John Paul Tasker, "Michael Kovrig and Michael Spavor Are Free: What Does This Mean for Canada-China Relations?" *CBC*, Sept. 25, 2021, <https://www.cbc.ca/news/politics/spavor-kovrig-released-what-does-it-mean-1.6189814>.

71 See Betsy Woodruff Swan and Andy Blatchford, "Trudeau Government Threatens Halifax Security Forum Over Proposed Taiwan Award," *Politico*, April 11, 2021, <https://www.politico.com/news/2021/04/11/trudeau-halifax-security-forum-taiwan-480722>; and Betsy Woodruff Swan and Andy Blatchford, "Halifax Security Forum Bucks Canadian Government and Chinese Pressure, Awards Taiwan's President," *Politico*, May 3, 2021, <https://www.politico.com/news/2021/05/03/halifax-security-forum-taiwan-president-485294>.

72 "John McCain Prize for Leadership in Public Service," Halifax International Security Forum, accessed Oct. 19, 2021, <https://halifaxtheforum.org/about/john-mccain-prize-for-leadership-in-public-service/>.

73 Murray Brewster, "Defence Minister Denies Withholding Funds for Security Conference Over Taiwan Award," *CBC*, April 12, 2021, <https://www.cbc.ca/news/politics/taiwan-security-form-standoff-1.5984974>.

74 Woodruff Swan and Blatchford, "Halifax Security Forum Bucks Canadian Government and Chinese Pressure."

75 John Paul Tasker and Brennan MacDonald, "Former Parliamentarians, Diplomats Pen Letter Calling on Canada to Release Meng," *CBC*, June 24, 2020, <https://www.cbc.ca/news/politics/letter-release-meng-1.5625669>.

76 Mark Gollom and Olivia Stefanovich, "The Canadian Government Can Intervene to End Meng's Extradition Trial. Should it?" *CBC*, June 23, 2020, <https://www.cbc.ca/news/politics/meng-extradition-liberal-government-intervene-1.5623991>.

77 Jeremy Nuttall and Douglass Quan, "Two Michaels' Fight Is Bigger than Canada, Global Observers Say — and the World Is Watching," *Toronto Star*, June 24, 2020, <https://www.thestar.com/news/canada/2020/06/24/two-michaels-fight-is-bigger-than-canada-global-observers-say-and-the-world-is-watching.html>.

78 Jeff Mason and Steve Holland, "Exclusive: Trump Says He Could Intervene in U.S. Case Against Huawei CFO," *Reuters*, Dec. 11, 2018, <https://www.reuters.com/article/us-usa-trump-huawei-tech-exclusive/exclusive-trump-says-he-could-intervene-in-u-s-case-against-huawei-cfo-idUSKB-N10A2PQ>.

79 Roland Paris, "Canadian Views on China. From Ambivalence to Distrust," Chatham House, Research Paper, July 2020. Australians' view of China has likewise deteriorated as a result of ongoing tensions. See Schuman, "China Discovers the Limits of Its Power."

nadians think that Huawei should be banned from Canada's 5G network.⁸⁰ If the Canadian government was criticized for its perceived lack of strategy and assertiveness in its relationship with China as the crisis unfolded,⁸¹ many experts now expect Ottawa to take a much tougher stand on China.⁸²

Beyond the Michaels

The two Michaels are not the first instance of Canadians being unlawfully detained by authoritarian states. Over the years, Iran has detained many Canadian citizens, often dual nationals, who have been arrested on national security and immorality charges. The actual number of Canadians detained in Iran remains unclear as secrecy often surrounds most of the negotiations and the release of those individuals.⁸³ According to Thomas Juneau, former government defense analyst and scholar researching Iran, publicity can make the situation worse: If a case is made public, it becomes difficult to both release the prisoner and save face.⁸⁴

In a similar fashion, Canada remained discreet in its dealings with China during negotiations surrounding the release of Julia and Kevin Garratt. In 2014, Canada arrested Su Bin, a Chinese national and Canadian resident, on an extradition warrant after he was charged by the United States with spying on Boeing. Shortly after, Julia and Kevin Garratt, two Canadians living in Northern China, where they operated a coffee shop and did Christian aid work, were arrested on counts of espionage. They were subsequently detained for two years to pressure Canada not to extradite Su Bin to the United States.⁸⁵ While Julia was released and deported back to Canada in early 2015,

her husband was indicted for espionage by Chinese authorities. According to the Garratts' lawyer, "The Chinese made it clear that the Garratt case was designed to pressure Canada to block Su Bin's extradition to the U.S." Some reports suggest the Canadian government obtained his release in 2016 as a precondition for Canada-China free trade negotiations and as part of a larger package of measures that also included the removal of important restrictions on some agricultural products.⁸⁶ However, it was only after Su Bin surrendered himself voluntarily to U.S. authorities, altering China's bargaining position, that the negotiations for Kevin's final release proceeded.⁸⁷

Between the Garratts' and Michaels' cases, we can see a pattern emerging. The arrest and detention of the two Michaels was a clear response to the arrest of Meng by Canadian authorities at the request of Washington. However, it became one measure in a larger Chinese offensive to pressure the Canadian government on different issues. The two Michaels seem to have been part of an even greater scheme to pressure Ottawa to adopt Huawei 5G technology and cease to criticize the regime for human rights and rule-of-law violations, which Beijing deems to be internal matters.⁸⁸ Canada remains the only Five Eyes partner that has not announced whether Huawei would be banned from the development of its 5G network.⁸⁹ Canada's strategy might have been one of avoidance, postponing a formal decision for the sake of the two Michaels. Their release could have been further delayed if Ottawa had publicly announced its decision, which will most certainly be in line with the other members of the Five Eyes intelligence-sharing community who have all banned Huawei technology in the development of their 5G network.

While Beijing accuses Canada of disrespecting

80 Steven Chase, "Poll Shows Hardening Position on China Among Canadians," *The Globe and Mail*, Oct. 11, 2021, <https://www.theglobeandmail.com/politics/article-poll-shows-hardening-position-on-china-among-canadians/>.

81 Andrew Coyne, "Good on Ya: Australia Is Bravely Showing Canada the Pain and Promise of a Principled Approach to Beijing," *The Globe and Mail*, Nov. 20, 2020, <https://www.theglobeandmail.com/opinion/article-good-on-ya-australia-is-bravely-showing-canada-the-pain-and-promise/>. On Huawei and 5G technology in Canada, see Christopher Parsons, *Huawei & 5G: Clarifying the Canadian Equities and Charting a Strategic Path Forward*, The Citizen Lab, Munk School of Global Affairs & Public Policy, University of Toronto, Dec. 8, 2020, <https://citizenlab.ca/2020/12/huawei-5g-clarifying-the-canadian-equities-and-charting-a-strategic-path-forward/>.

82 Mike Blanchfield, "Canada Urged to Join Allies in Tougher China Stance After Kovrig, Spavor Release," *CBC*, Oct. 11, 2021, <https://www.cbc.ca/news/politics/canada-china-tougher-stance-1.6207251>.

83 Catherine Cullen, "How Many Canadians Are Jailed in Iran? The Government Won't Say," *CBC*, July 13, 2016, <https://www.cbc.ca/news/politics/canadians-jailed-iran-number-1.3675175>.

84 Cullen, "How Many Canadians Are Jailed in Iran?"

85 Dan Levin, "Couple Held in China Are Free, but 'Even Now We Live Under a Cloud'," *New York Times*, Jan. 1, 2017, <https://www.nytimes.com/2017/01/01/world/canada/canadian-couple-china-detention.html>.

86 Roland Paris, "Canadian Views on China: From Ambivalence to Distrust," Chatham House, Research Paper, July 2020, 3, <https://www.chathamhouse.org/sites/default/files/2020-07-21-canada-china-views-paris.pdf>.

87 Garrett M. Graff, "How the US Forced China to Quit Stealing—Using a Chinese Spy," *Wired*, Oct. 11, 2018, <https://www.wired.com/story/us-china-cybertheft-su-bin/>.

88 MacCharles, "China's Ambassador Escalates War of Words with Ottawa."

89 The Five Eyes is an intelligence-sharing alliance that includes Australia, Canada, New Zealand, the United Kingdom, and the United States.



Chinese sovereignty, Canadian politicians have denounced China's own meddling in Canadian affairs and asked for the adoption of a strong strategy to counter Chinese influence. MP John McKay, then chairman of Canada's public safety and national security committee, denounced how China "essentially kidnapped two of our citizens." He went on to say that the country "pay[s] no attention to any elements of the rule of law, trade agreements, they use things like canola as political leverage and they sow mischief in the diaspora communities. I just think it's time for a big re-think, and a big re-set."⁹⁰

The implications of the case at hand extend far beyond these three individuals and the Canadian-Chinese relationship. As articulated by Mexico's former ambassador to China, had Ottawa caved in to Beijing, it would have signaled that Chinese nationals are above the law in foreign countries.⁹¹ Similar fears have rippled through Australian and Swedish society, as their citizens have been detained in China as well.⁹² Middle powers yielding to Beijing's coercive tactics would confirm China's ability to opt for an *à la carte* approach when it comes to the rule of law and the liberal international order, and to force complacency through coercive diplomatic means in its dealings with other states, and not only the middle powers.

Negotiating Hostage Diplomacy

When extradition is off the table, target states must find alternative solutions to bringing their citizens home. In the past, Western targets of hostage diplomacy have been able to secure the release of their citizens through a range of nuanced negotiation techniques that have proven useful in complex, coercive diplomacy. What might look like a straightforward trade between two parties is revealed to be a multi-dimensional, multi-party game. Lessons from the principles of negotiation can offer strategies for states arriving to the table as the weaker party. Three strategies in particular are relevant for hostage diplomacy where an asymmetric relationship is at play: reconsidering the negotiating space, focusing on the psychology of the deal, and expanding the

pie.⁹³ Although the two Michaels' case was recently resolved, we can still consider the dynamics at play and how each of these three strategies might have been employed. Together, these strategies offer suggestions for how middle powers should approach Chinese hostage diplomacy in the future.

The Negotiation Space

First, the target state can improve its position by reconsidering the negotiating space, which "consists of every party that can affect the negotiation, along with any party that will be affected by the negotiation."⁹⁴ In other words, the state can expand the negotiating space by thinking about the negotiation in terms of all possible parties — i.e., other countries — that have an interest at stake. As negotiations expert Deepak Malhotra cautions, "a strategy that makes perfect sense when you're thinking bilaterally — that is, about the relationship between any two parties in the negotiation — can suddenly become ineffective or even disastrous when you take a multilateral perspective." Instead, he encourages his clients to think about the "interests, constraints, alternatives, and perspective" of all relevant parties:

Who has the ability to influence the person on the other side of the table? How might the strategy or actions of other parties change your alternatives, for better or worse? How does the deal affect the interests of those who are not at the table? How will this negotiation affect your leverage with future negotiation partners? If multiple parties are involved in the deal, does it make sense to negotiate with them simultaneously or in sequence, together or separately?⁹⁵

In the two Michaels' case, expanding the negotiating space would have entailed thinking beyond the bilateral relationship between the Chinese and Canadian governments to consider the position of the United States and its own priorities vis-à-vis China. It might also have involved thinking about the U.S.-Iranian relationship and the role of Iran

90 MacCharles, "China's Ambassador Escalates War of Words with Ottawa."

91 Nuttall and Quan, "Two Michaels' Fight Is Bigger than Canada."

92 Bethany Allen-Ebrahimian, "China Embraces Hostage Diplomacy," *Axios*, Oct. 20, 2020, <https://www.axios.com/china-hostage-diplomacy-threat-7c0f8220-684b-4c40-a51c-ffaa9b8cb1d3.html>.

93 Roger Fisher and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* (New York: Penguin Books, 2011); and Jeff Weiss, *Harvard Business Review Guide to Negotiating* (Boston: Harvard Business School Publishing Corporation, 2016).

94 Deepak Malhotra, "Control the Negotiation Before It Begins," *Harvard Business Review* (December 2015), <https://hbr.org/2015/12/control-the-negotiation-before-it-begins>, 66–72.

95 Malhotra, "Control the Negotiation Before It Begins."

sanctions, a stated reason for arresting Meng. In other words, it is crucial to see any hostage diplomacy scenario as a multi-player, rather than a two-player, game. How might the Canadian government have leveraged its relationship with the United States or other partners to help free its citizens in China? First, this would require understanding what the United States actually cared about in this extradition case — whether the arrest was about enforcing sanctions against Iran or challenging

the larger liberal international order also provides some cover to protect and advance Canadian interests. The larger the front against China, the easier it is to balance against Beijing. In June 2021, Canada called for the G7 to adopt a concerted approach toward China,⁹⁶ generating a strong diplomatic response from Beijing as the G7 announced a series of efforts to thwart Chinese influence around the globe.⁹⁷ In February 2021, Marc Garneau, Canada's Minister of Foreign Affairs, launched the Declaration Against Arbitrary Detention in State-to-State Relations, which has since been endorsed by over 60 countries and the European Union.⁹⁸ Europe itself is growing increasingly wary of China. The lack of reciprocity in Sino-European relations, China's assertiveness in the South China Sea, human rights violations in the mainland and in Hong Kong, and disregard for international arrangements all contribute to Europe's discomfort.⁹⁹ In contrast, Canada has deepened its relationship with European partners in recent years through the adoption of the Canada-European Union Comprehensive Economic and Trade Agreement.

Middle powers yielding to Beijing's coercive tactics would confirm China's ability to opt for an *à la carte* approach when it comes to the rule of law and the liberal international order...

China. For Canada, it would mean finding a solution that ensured the return of the two Michaels without raising the ire of Washington or looking like a mere pawn in the greater U.S.-Chinese rivalry. Moreover, it was important for Canada to keep future negotiation partners in mind. This cautions against taking any action that would have suggested to future would-be hostage takers that Canada was willing to pay.

Canada also might have considered looking for support elsewhere. Throughout the Michaels' ordeal, Ottawa actively pursued this approach, well aware of how a multilateral front among middle powers could help counter Chinese influence and alleviate the pressure on the Canadian-U.S. relationship. Indeed, if the alliance with the United States is key to Canada's security and prosperity,

Forging a coordinated front with the members of the Five Eyes community, some of whom have been threatened by Beijing with retaliatory measures since they announced they would not adopt Huawei 5G technology,¹⁰⁰ could also have helped create greater resistance against China's coercive diplomacy tactics. As noted earlier, Canada is the only Five Eyes partner that has yet to announce will whether it will seek to ban certain providers, namely Huawei, from the development of its 5G network. Considering the terms of the Five Eyes partnership, it is unlikely that Canada would agree to allow Huawei 5G technology in its telecommunications networks. The absence of a clear position by Ottawa has been heavily criticized, particularly at the domestic level.¹⁰¹ However, this silence might well illustrate the difficult position Ottawa faced

96 "G7 Leaders Agreed to Coordinate China Approach Much More Closely - Canada PM Trudeau," *Reuters*, June 13, 2021, <https://www.reuters.com/world/china/g7-leaders-agreed-coordinate-china-approach-much-more-closely-canada-pm-trudeau-2021-06-13/>.

97 "G7 Summit: China Says Small Groups Do not Rule the World," *BBC News*, June 13, 2021, <https://www.bbc.com/news/world-asia-china-57458822>.

98 "Launch of Declaration Against Arbitrary Detention in State-to-State Relations," Global Affairs Canada, Feb. 15, 2021, <https://www.canada.ca/en/global-affairs/news/2021/02/launch-of-declaration-against-arbitrary-detention-in-state-to-state-relations.html>.

99 Janka Oertel, "The New China Consensus: How Europe Is Growing Wary of Beijing," European Council on Foreign Relations, Sept. 7, 2020, https://ecfr.eu/publication/the_new_china_consensus_how_europe_is_growing_wary_of_beijing/.

100 Lily Kuo, "Chinese Media Calls for 'Pain' Over UK Huawei Ban as Trump Claims Credit," *The Guardian*, July 15, 2020, <https://www.theguardian.com/technology/2020/jul/15/huawei-china-state-media-calls-for-painful-retaliation-over-uk-ban>.

101 See, for instance, Marcus Kolga, "Justin Trudeau Must Ban Huawei from Building Canada's 5G Network," *McLean's*, Aug. 7, 2020, <https://www.macleans.ca/opinion/justin-trudeau-must-ban-huawei-from-building-canadas-5g-network/>; and Charles Burton, "Burton: Why Canada Can't Let Huawei Build a 5G Network," *Ottawa Citizen*, Feb. 21, 2020, <https://ottawacitizen.com/opinion/columnists/burton-why-canada-cant-let-huawei-build-a-5g-network>.



in its dealings with China, given the two Michaels' detention. Furthermore, nothing prevented Ottawa from forgoing a public announcement while privately preparing the terrain to ban Huawei and reassuring its closest security partners behind closed doors. In any case, a coalition of middle powers should go beyond giving statements of support.¹⁰² Going forward, these countries should adopt a coordinated approach in their dealings with China, providing both a firm stand on contentious issues and space for dialogue on potential areas of cooperation with Beijing.

The Psychology of the Deal

Second, negotiations can benefit by re-conceptualizing the frame. This means going beyond the leverage of the deal to consider the *psychology* of the deal as well. Both sides in any hostage diplomacy scenario have positive leverage — something the other party wants — as well as negative leverage — ways to make the other party worse off. The principles of negotiation offer the challenging suggestion to focus on the negotiation's frame: focus on your negotiating partner and assert equality in the face of dominance.

When faced with high-stakes negotiations, it is tempting to dwell on what will happen if no deal is reached. Yet, the failure to reach a negotiated solution is not always disastrous and can often present a positive opportunity. In negotiations, this is known as the “BATNA” — the best alternative to a negotiated agreement.¹⁰³ The better a state's BATNA, the stronger its negotiation position, because a state will be confident walking away from any suboptimal offer. However, if a negotiated solution seems elusive and a state's BATNA is weak, failure to reach a deal is more likely to have harsh consequences. In the case of the two Michaels, it would have meant the Canadian government (rightly) worrying about what would happen to the two Michaels — and what would happen to their own leadership — if they could not figure out a principled way to bring the Michaels home.

Experienced negotiators counsel flipping the frame, and focusing on what would happen if one's negotiating partner or adversary doesn't get what it wants.¹⁰⁴ What would have been China's best al-

ternative to a negotiated agreement? Understanding the conflict from that perspective might have altered Ottawa's conception of leverage and of what China had to gain or lose from its hostage diplomacy. This could have meant bringing other sources of leverage into the conversation, from Canada's canola supply to unilateral principled positions on issues of lesser importance to Canadian interests.¹⁰⁵ Nonetheless, Canada finds itself at a significant disadvantage in its relationship with China, which would have made this strategy less appealing.

While threatening China might be ill advised, Ottawa should try to position itself in the future in a way that prevents unnecessary bullying. Now that the crisis is resolved, how Canada is perceived by China will certainly affect the future power dynamic between the two countries and how Beijing chooses to deal with Ottawa. The same is also true in Ottawa, where the crisis is likely to have lasting damaging effects on China's image and reputation.

Negotiators also advise thinking carefully about “equality versus dominance” in unequal negotiating relationships and encourage the weaker partner to assert its equality at all points of the negotiation. While a difficult strategy for a middle power like Canada to exercise in dealing with China, its adoption would encourage Canada to approach negotiations as if it were an equal global power to China and not accept procedural conditions that a greater power would not accept. This suggests that behaving as a minor party — or a middle power — would give China permission to treat Canada as such. Middle powers should insist on fair, favorable conditions throughout any negotiations process — this includes insisting that diplomatic talks happen in equitable locations and at favorable times. If bilateral solutions are unlikely, middle powers should ensure they are seen as active protagonists in the brokerage of a multilateral solution. Ottawa, for instance, should not stand on the sidelines while Washington and Beijing confer over its fate. Otherwise, it risks portraying itself as a weak player that can be bullied and used against the United States. Under such a scenario, Ottawa's international status would only be further diminished and its privileged relation with Washington could ultimately be put into question.

102 Evan Dyer, “New Zealand - the Five Eyes Ally that Came Up Short in Canada's Huawei Dispute,” *CBC News*, April 27, 2019, <https://www.cbc.ca/news/politics/huawei-new-zealand-1.5113504>.

103 Fisher and Ury, *Getting to Yes*.

104 Fisher and Ury, *Getting to Yes*; and Weiss, *Harvard Business Review Guide to Negotiating*.

105 In the months following Meng's arrest, China stopped purchasing canola from two main Canadian exporting companies. However, the Covid-19 pandemic disrupted the canola global supply chain, forcing China to start buying Canadian canola again despite an increase in price. Depending on Canada's ability to meet China's demand for canola, it might have offered some common ground for finding an exit to the detainees' crisis. Shaoyan Sun, “China's Ban on Canadian Canola: Reasons, Impacts, and Policy Perspectives,” *China Institute*, University of Alberta, October 2020, <https://doi.org/10.7939/r3-bzhn-d142>.

Expanding the Pie

Third, negotiations can benefit from rejecting the “myth of the fixed pie.” Experienced negotiators divide negotiations into two categories: *positional* and *principled* bargaining. Positional bargaining conceives of negotiations as distributional and one-dimensional in nature: one negotiating party claims something (money, territory, status) at the expense of another. Positional bargains, aimed at settling on a solution somewhere between the two sides, are inherently zero-sum. Conversely, principled bargaining conceives of negotiations as an opportunity to solve problems creatively. By opening up new opportunities and satisfying the parties’ underlying interests, rather than their stated demands, principled negotiations can produce positive-sum outcomes.¹⁰⁶ One should think of hostage diplomacy as presenting a principled, rather than a positional, bargain. There is no fixed resource to distribute and both sides have principles and interests at stake.

Past episodes of hostage diplomacy suggest that the easiest way to bring captives home is to put more issues on the table — to expand the pie or enlarge the “zone of possible agreement.”¹⁰⁷ Recall the example of Jason and Yeganeh Rezaian, Amir Hekmati, and Saeed Abedini, Iranian-American dual nationals released from imprisonment in Iran as part of the 2015 Iran deal negotiations. In return for their release, the United States released several Iranian sanctions violators from U.S. prisons (suggesting the United States is willing to budge on sanctions policy when the right deal is on the table) and paid the \$1.7 billion settlement owed to Iran from the days of the Shah. Several years prior, the United States was able to negotiate the release of aid worker Alan Gross from Cuba in the same way — by tacking his freedom onto a larger diplomatic deal that paved the way for restoring relations between the two countries. Canada itself has some experience with this in its dealings with China: The return of the Garratt couple was negotiated as part of a series of preconditions to start free trade talks.

In hostage diplomacy crises, Canada and other

middle powers could expand the pie and enlarge the negotiating space by identifying and playing off American foreign policy priorities. In the case of Meng and the two Michaels, for example, that would have required determining America’s underlying interest in Meng’s arrest. Understanding what the United States and China really care about — and why — can offer creative approaches to negotiated solutions. On the one hand, America’s interest in this case might have been about enforcing Iran sanctions and effecting a high-profile win on the matter. Given the Trump administration’s Iran sanctions embarrassment at the U.N. Security Council in September 2020, and the Biden administration’s ongoing efforts to reassess the Iran deal, Canada might have offered some element of high-profile support for U.S. policy.¹⁰⁸ While the Trump administration pushed unsuccessfully for new U.N. sanctions, then-presidential candidate Joe Biden argued for returning to the confines of the original deal: “If Iran returns to strict compliance with the nuclear deal, the United States would rejoin the agreement as a starting point for follow-on negotiations. With our allies, we will work to strengthen and extend the nuclear deal’s provisions, while also addressing other issues of concern.”¹⁰⁹ This suggests that with Biden in office, Canada might have expected a change in Iran sanctions policy to provide an opening in the Meng case.

On the other hand, and what we consider the more likely possibility, the request for Meng’s arrest and extradition might have been about cracking down on Chinese tech and giving Huawei a “bloody nose.”¹¹⁰ The United States has long raised concerns about the close relationship between Huawei and Beijing, warning that Huawei 5G technology could be used to spy against foreign governments and enterprises. U.S. charges against Meng could have very well been a signal to Beijing that Washington is serious about countering Huawei’s nefarious activities: Meng’s father, and Huawei’s founder, is a former military engineer said to be close to the regime. Since Meng’s arrest — and likely pressured by the United States — the United Kingdom, Japan, and Australia have all announced that they would

106 Harold I. Abramson, *Mediation Representation: Advocating as a Problem-Solver*, 3rd ed. (New York: Wolters Kluwer Law & Business, 2013).

107 Katie Shonk, “How to Find the ZOPA in Business Negotiations,” Harvard Law School Program on Negotiation, Daily Blog, June 28, 2021, <https://www.pon.harvard.edu/daily/business-negotiations/how-to-find-the-zopa-in-business-negotiations/>. Typically, the zone of possible agreement, or ZOPA, refers to positional or distributive bargaining and is used to find the range of potential deals between the two parties’ bottom lines.

108 Matthew Lee, “Alone Among Nations, US Moves to Restore UN Iran Sanctions,” *Washington Post*, Sept. 21, 2020, https://www.washingtonpost.com/world/national-security/alone-among-nations-us-moves-to-restore-un-iran-sanctions/2020/09/21/dba9af52-fc2b-11ea-b0e4-350e4e60cc91_story.html.

109 Joe Biden, “Joe Biden: There’s a Smarter Way to Be Tough on Iran,” *CNN*, Sept. 13, 2020, <https://www.cnn.com/2020/09/13/opinions/smarter-way-to-be-tough-on-iran-joe-biden/index.html>.

110 David Brunnstrom, “No ‘Bloody Nose’ Plan for North Korea: U.S. Officials, Senators,” *Reuters*, Feb. 15, 2018, <https://www.reuters.com/article/us-northkorea-missiles-usa-bloodynose/no-bloody-nose-plan-for-north-korea-u-s-official-senators-idUSKCN1FZ2KK>.

ban Huawei from participating in the development of their 5G networks.¹¹¹ Canada has yet to make a similar announcement, although it is unlikely that Ottawa would break from the United States or its Five Eyes partners on such a critical matter for cyber security and intelligence.¹¹² Inspired by the events that led to the release of Kevin Garratt, Canada might have asked the United States to drop charges against Meng, while adopting a strong and thorough national strategy for 5G technology that would exclude Huawei and other Chinese tech. Ultimately, this crisis suggests to middle powers that understanding how to leverage the position of the United States requires a creative examination of their foreign policy interests.

Considering the case of the two Michaels as an integrative negotiation reminds us that this standoff was never just about three prisoners — but rather, was about the much larger questions of 5G, China's rise, and Canada's position between two giants. As a result, it is no surprise that the solution appears to have relied on U.S. involvement, although it may have relied on some or all of these strategies being employed behind the scenes. In any case, the unfortunate Kovrig-Spavor-Meng triangle is likely to have profound consequences on the future of Sino-Canadian relations and provide some important insights for the conduct of foreign policy by middle powers in the context of acute competition between the United States and China.

Implications for Canada, the Middle Powers, and the Liberal International Order

In Canada, the debate over the unlawful detention of the two Michaels progressively gave way to a much larger — and crucial — debate about the future of the country's relationship with China. In November 2020, the House of Commons adopted

a motion urging the government to decide on the adoption of Huawei 5G technology within 30 days, a demand the Trudeau government did not respond to. On Sept. 28, 2021, three days after the two Michaels returned to Canada, Trudeau said he would announce his decision on Huawei in the coming weeks.¹¹³ Despite any official announcement, Canadian telecommunications companies are already moving away from Huawei technologies in the development of their 5G network.¹¹⁴ Concurrently, the Canadian Security Intelligence Service publicly acknowledged that Beijing uses covert agents and proxies to target members of the Chinese diaspora to silence critiques of the regime and General Secretary Xi Jinping.¹¹⁵ In a press conference on China, Trudeau warned, "For a number of years, we have observed foreign actors wield influence on members of their diaspora in Canada. Unfortunately, recently this has intensified."¹¹⁶ In a rare public appearance, the director of Canada's intelligence service, David Vigneault, warned that "the greatest strategic threat to Canada's national security comes from hostile activities by foreign states. While we focus on protecting our citizens, we bear witness to hostile states leveraging all elements of their state apparatus to advance their national interests at Canada's expense."¹¹⁷ As a result, if the Trudeau government once wished to shape relations with China in favor of a free trade agreement, it has now tabled that option.¹¹⁸ In these troubled times, pushing back against China and doubling down on the alliance with the United States seems like the reasonable thing to do. However, Ottawa should avoid essentializing its relationship with both great powers and should rethink its foreign policy to better serve its core national interests.

Four years of America First foreign policy — illustrated by the imposition of tariffs on Canadian exports despite the recent adoption of the United States-Mexico-Canada Agreement, constant criticism directed at NATO, and Washington's with-

111 Nigel Inkster, "The Huawei Affair and China's Technology Ambitions," *Survival* 61, no.1 (2019): 105–11, <https://doi.org/10.1080/00396338.2019.1568041>.

112 Parsons, "Canada's Huawei Balancing Act," in *Huawei & 5G: Clarifying the Canadian Equities and Charting a Strategic Path Forward*, 56–62.

113 Sarah Turnbull, "Trudeau Says He Will Share Decision on Huawei 5G Tech in 'Coming Weeks,'" *CTV News*, Sept. 28, 2021, <https://www.ctvnews.ca/politics/trudeau-says-he-will-share-decision-on-huawei-5g-tech-in-coming-weeks-1.5603690>.

114 Robert Fife and Steven Chase, "Telus to Build Out 5G Network Without China's Huawei," *The Globe and Mail*, Nov. 23, 2020, <https://www.theglobeandmail.com/politics/article-telus-to-build-out-5g-network-without-chinas-huawei/>.

115 Robert Fife and Steven Chase, "CSIS Warns China's Operation Fox Hunt Is Targeting Canada's Chinese Community," *The Globe and Mail*, Nov. 10, 2020, <https://www.theglobeandmail.com/politics/article-csis-warns-chinas-operation-fox-hunt-is-targeting-canadas-chinese/>.

116 Robert Fife and Steven Chase, "Trudeau Says Beijing's Targeting of Canadian Chinese Community Has 'Intensified,'" *The Globe and Mail*, Nov. 13, 2020, <https://www.theglobeandmail.com/politics/article-trudeau-calls-beijings-targeting-of-canadian-chinese-community/>.

117 "Remarks by Director David Vigneault to the Centre for International Governance Innovation," Government of Canada, Security Intelligence Service, Feb. 9, 2021, <https://www.canada.ca/en/security-intelligence-service/news/2021/02/remarks-by-director-david-vigneault-to-the-centre-for-international-governance-innovation.html>.

118 Nathan Vanderklippe, "Canada Abandons Free-Trade Talks with China in Shift for Trudeau government," *The Globe and Mail*, Sept. 18, 2020, <https://www.theglobeandmail.com/world/article-canada-abandons-free-trade-talks-with-china-in-shift-for-trudeau/>.

drawal from the Paris Agreement and the World Health Organization — has forced Ottawa to reevaluate the steadfast nature of its relationship with the United States. In Roland Paris' words, "the U.S. will remain Canada's closest ally and trading partner — even if the U.S. administration does not see Canada in precisely the same light."¹¹⁹ The election of Biden foreshadows a return to more amicable relations between the North American partners. Nonetheless, Ottawa should not fool itself: Washington will be forced to refocus its energy toward strategic competition with Beijing, sometimes to Canada's detriment.

In the case at hand, Canada landed itself in a difficult position because it assumed the backing of the United States based on the extradition treaty that is in place and the longstanding history of cooperation between the two countries. Yet, Trump said early on in the crisis that he could use Meng as a bargaining chip in the trade war with China, a claim that was later used by Meng's lawyers to criticize the integrity of the Canadian judicial proceedings.¹²⁰ Such rhetoric has only further poisoned the relationship between the two great powers, harming Canada, which became an unfortunate pawn in their game. The close Canadian-U.S. partnership makes Ottawa a particularly attractive target for American adversaries who wish to avoid direct confrontation with Washington. Canada's geographic, economic, and political proximity to the United States makes it an ideal target, even more so than other close U.S. allies.

Biden's election might well have been an opportunity to dial back the pressure and establish new avenues for productive dialogue between Washington and Beijing. Both Biden and Secretary of State Anthony Blinken voiced their support for Canada and condemned the arbitrary detention and prosecution of Kovrig and Spavor.¹²¹ Given that it was the United States that issued the initial arrest warrant against Meng, Washington provided an exit to the crisis by deciding not to try Meng once extradited or to drop the warrant altogether as part of a greater effort to reset the relationship or a broader favorable settlement. In this context,

Canada was not forced to violate its legal and treaty duties, upholding the rule of law in doing so. The outcome of the stalemate also suggests China was actually willing to reach a deal. It would have been entirely possible for Beijing to use the Meng-Spavor-Kovrig stalemate to signal its resolve to protect its interests abroad and the length it is willing to go to do so, particularly considering how much better China's BATNA — setting an important precedent — was to Canada's alternative of seeing two citizens unlawfully detained.

Given the mounting domestic pressure that Canada faced as the crisis unfolded and the limited space it had for maneuvering between the United States and China, Canada needs a strategy toward China to help guide its actions in the future. It is important to realize that Ottawa cannot unnecessarily burn all bridges with Beijing. Doing so would only leave Canada more vulnerable to China's temper and undermine the government's ability to communicate and engage productively with Beijing. Negotiations and dispute resolution require channels of communication and room for negotiation. It also means that if the Canadian government sets the release of its citizens as the utmost priority in its dealings with Beijing, it must be willing to face other unexpected costs as time goes on and other situations emerge. To identify a path forward, Pascale Massot, scholar and former senior adviser to Canada's minister of foreign affairs, suggests the adoption of a more granular approach to avoid "a sharp conflict of hearts and minds against China, which would not serve Canadian interests."¹²²

The erosion of the liberal international order has made principled action increasingly risky, leaving Canada vulnerable. As mentioned by Paris, "Canadian governments have advocated similar values in their foreign policies since the end of the Second World War. The problem today is not that Canada has changed. It is the rest of the world that has changed, leaving Canada as something of an outlier—and a lightning rod."¹²³ It is time for Canada to ask itself what its core national interests are. If the defense of Canada's security, sovereignty, and integrity is now paramount, it might have to let go

119 Paris, "Canadian Views on China," 11.

120 Andy Blatchford and Leah Nylen, "Trump's Comments About Huawei Exec's Arrest to Take Center Stage in Extradition Fight," *Politico*, June 15, 2020, <https://www.politico.com/news/2020/06/15/trump-china-trade-deal-huawei-executive-extradition-319642>; and Terri Theodore, "Trump Used Meng Wanzhou as 'Bargaining Chip' in Trade Fight with China: Documents," *National Post*, July 24, 2020, <https://nationalpost.com/news/trump-used-huawei-cfo-as-bargaining-chip-in-trade-fight-with-china-documents>.

121 Andy Blatchford, "Blinken Joins Trudeau in Condemning Chinese Sentences of Canadians," *Politico*, Aug. 10, 2021, <https://www.politico.com/news/2021/08/10/chinese-court-michael-spavor-11-years-503645>.

122 Pascale Massot, "Global Order, US-China Relations, and Chinese Behaviour: The ground is shifting, Canada must adjust," *International Journal* 74, no. 4 (2019): 605, <https://doi.org/10.1177%2F0020702019894991>.

123 Roland Paris, "Alone in the World? Making Sense of Canada's Disputes with Saudi Arabia and China," *International Journal* 74, no.1 (2019): 152, <https://doi.org/10.1177%2F0020702019834652>.



of some of its normative positions toward China.¹²⁴ Massot lists a series of issues — municipal governance, local environmental degradation, vaccine scandal, and political regime — that Canada ought to relinquish in order to firm up on more central interests, such as foreign interference, consular cases, and commercial espionage, for example.¹²⁵ A modular, comprehensive strategy is more likely to allow for dialogue, which is essential to avoid unnecessary escalation and to protect Canadian nationals on Chinese soil. In other words, Canada's future strategy toward China should provide greater insights into what truly matters to Canada in its relationship with China, while also proposing a larger menu of options for dialogue with Beijing. Doing so would help avoid the myth of the fixed pie and raise Ottawa's status in its dealings with Beijing. It is ultimately up to Canada to convince China to consider it as an equal partner.

Like Canada, other middle powers also find themselves at a crossroads. As great powers recalibrate their foreign policy to face each other more or less explicitly, middle powers are likely to find themselves with less room to maneuver and increasingly difficult choices to make. Their ability to pursue their interests will increasingly be constrained by great-power rivalries.¹²⁶ Above all else, they should become more pragmatic in dealing with major powers. European countries are well aware of this necessity as they constantly negotiate with Moscow, balancing European principles with maintaining critical access to Russian oil and gas.¹²⁷

Middle powers should reaffirm their commitment to the liberal international order. With strength in numbers, middle powers can challenge and engage great powers more effectively by leveraging multilateral organizations and channels. During the case of the two Michaels, former U.S. Ambassador to the United Nations Samantha Power suggested on *Power & Politics*, a news program on the Canadian Broadcasting Corporation, that Ottawa could look for help from like-minded countries, particularly in Europe, when the United States fails to support its

efforts.¹²⁸ It is important to remember that, in facing Beijing, Canada and other middle powers have friends and allies, while China only has clients, like North Korea.¹²⁹

In addition, even if the United States remains a crucial partner for Western middle powers, smaller states should look for issues and areas on which they share common interests with other major powers, whether China or Russia. Middle powers can position themselves advantageously by building relationships and trust with great powers, enabling them to negotiate from a position of strength even without Washington's backing.

Conclusion

Kidnappings by nonstate actors took center stage during the "Global War on Terror." Now that strategic competition is replacing terrorism as the primary challenge facing the United States and its allies, hostage diplomacy will likely become a more prevalent threat to the security of Western countries.¹³⁰ Middle powers allied to the United States are particularly likely to be the target of coercive diplomatic measures, a situation that will only accelerate if Washington continues to opt for a foreign policy that favors unilateralism. Canada learned the hard way what can happen when it assumes it has America's unequivocal support and protection.

Negotiation strategies provide some insights into how weaker states can position themselves to avoid being caught in the crossfire between great powers. First, there is strength in numbers. Even without the backing of the United States, multilateralism can provide some cover to middle powers and limit their risk of being bullied. Second, middle powers should determine which issues they are unwilling to compromise on, while letting go of principled positions that do not serve their interests. Third, maintaining communication and dialogue with adversaries can help secure space for negotiation and resolution of future disputes.

124 Gaëlle Rivard Piché, "Standing on Guard: Canada's Strategic Interests in a Competitive World Order," CDA Institute, Vimy Paper, no. 47 (March 2021), <https://cdainstitute.ca/wp-content/uploads/2021/03/CDAI-Vimy-Paper-47.pdf>.

125 Massot, "Global Order, US-China Relations, and Chinese Behaviour," 609.

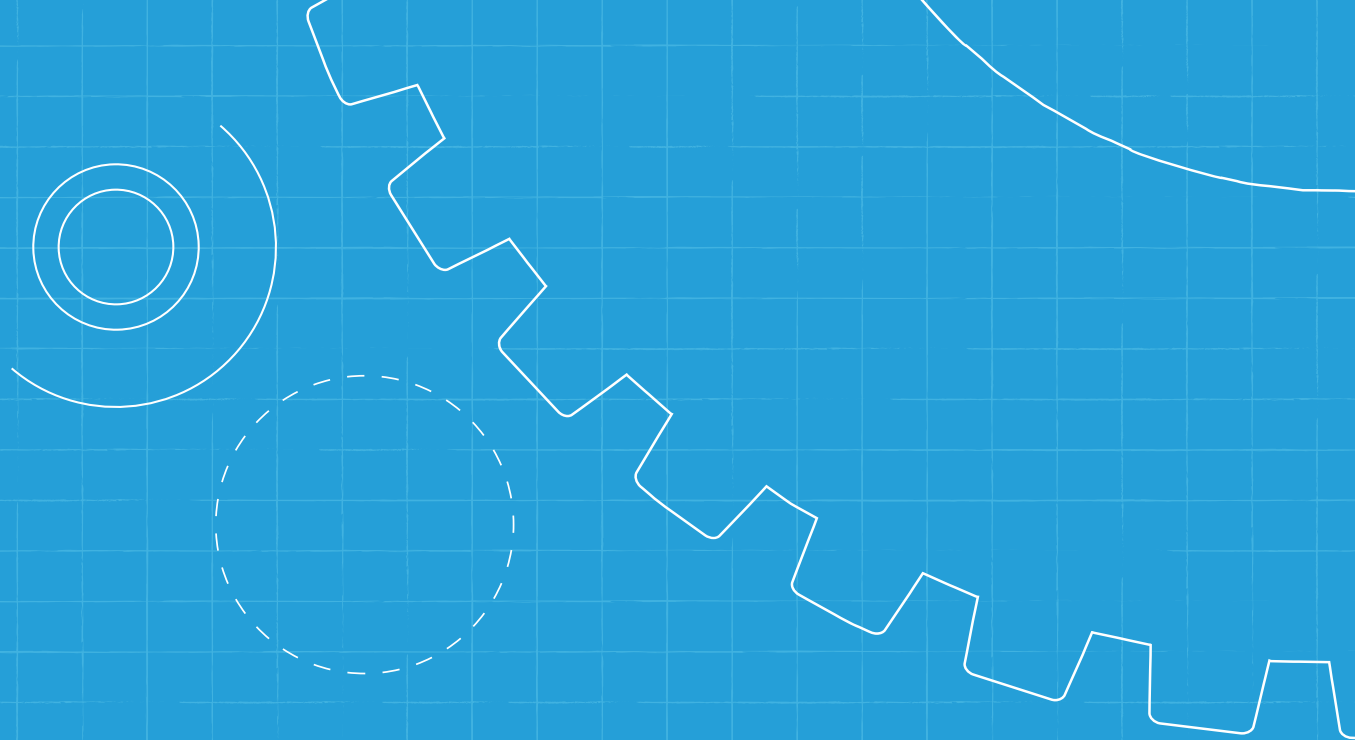
126 See David Carment and Richard Nimijean, "Canada's China-U.S. Conundrum," *The Hill Time*, Feb. 24, 2020, <https://www.hilltimes.com/2020/02/24/canadas-china-u-s-conundrum/235047>.

127 "EU-Russia Relations: Commission and High Representative Propose the Way Forward," European Commission, Press Release, June 16, 2021, https://ec.europa.eu/commission/presscorner/detail/en/ip_21_3010.

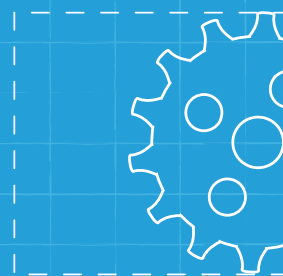
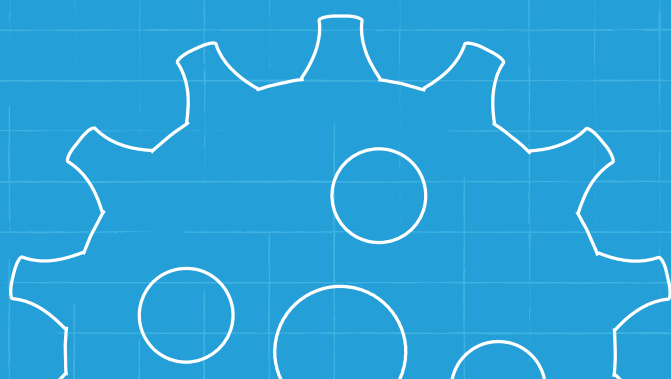
128 Brennan MacDonald and Vassy Kapelos, "Holding China Accountable Is in Canada's 'Moral' and 'Strategic' Interests, Says Ex-Ambassador," *CBC*, April 30, 2020, <https://www.cbc.ca/news/politics/powerandpolitics/samantha-power-holding-china-accountable-canada-interests-1.5550627>.

129 Colin Robertson, "To Break the Impasse on the Detention of Spavor and Kovrig, Canada Has 3 Options," *CBC*, June 26, 2020, <https://www.cbc.ca/news/opinion/spavor-kovrig-meng-china-detention-1.5626280>.

130 *Summary of the 2018 National Defense Strategy of the United States of America: Sharpening the American Military's Competitive Edge*, U.S. Department of Defense, 2018, <https://dod.defense.gov/Portals/1/Documents/pubs/2018-National-Defense-Strategy-Summary.pdf>.



In Canada, the debate over the unlawful detention of the two Michaels progressively gave way to a much larger — and crucial — debate about the future of the country's relationship with China.



The case of the two Michaels also highlights the importance of international collaboration on hostage recovery — whether the hostage takers are nonstate groups like rebels and terrorists or hostile states. The limited research on hostage recovery policies is divided on the question of whether making concessions to hostage takers increases the risk of future attacks.¹³¹ Nonetheless, the temptation to make concessions when it is your citizen or family member in captivity — a different kind of prisoner's dilemma — creates a permissive environment and leads to suboptimal outcomes.¹³² The United States and Canada have made significant investments in recent years to understand and improve hostage recovery procedures.¹³³ Sometimes, the results of this investment and collaboration are public, as when military forces from multiple countries work together to execute a hostage recovery mission.¹³⁴ More often, however, it results in painstaking, behind-the-scenes negotiations that rely on the strategies outlined above.

The two Michaels case drives home the way state hostage takers target democratic publics through fear. Beijing was banking on the fact that Ottawa would go to great lengths to protect the lives of two of its citizens. Indeed, the value attached to a single human life in Western democracies made the safe return of Spavor and Kovrig non-negotiable and the only acceptable outcome on the Canadian side, which in turn gave considerable leverage to China. Fear of making a misstep and the potential dire consequences for the lives of Spavor and Kovrig forced the Canadian government to keep most of its negotiation tactics private while also preventing the adoption of a clear broader strategy toward China.

Ultimately, one could argue that only punishment — not concessions — will end the use of hostage di-

plomacy as a hostile tool of foreign policy. While target governments want to bring their citizens home, the concessions made for each prisoner may perpetuate the cycle of demands. To disarm China and other states from using this pernicious tool, they must face consequences for their use of hostage diplomacy. One option is for states to focus on deterrence by punishment to prevent hostage taking in the future. For example, current U.S. hostage recovery policy includes launching special forces hostage recovery missions, sanctioning perpetrators, or trying them in U.S. courts.¹³⁵ Perhaps the targets of hostage diplomacy could threaten diplomatic or economic punishments on the world stage. Yet, punishment is not something middle powers can easily wield, and definitely not on their own.

If middle powers are to avoid being simple pawns in great-power games, they will need to rethink their role in the conduct of international affairs. Maintaining middle-power status will require two things from countries like Canada: First, having the will and the means to protect their core national interests, and second, being able to act as a power broker to lead change in the international system in ways that preserve those interests. To do so, middle powers will need to adopt proactive foreign policies and national defense strategies that balance strong partnerships with the United States and other like-minded countries and trusted means of communication with adversarial powers to avoid missteps and unnecessary escalation.¹³⁶ The unfortunate affair discussed in this article serves as a reminder that Canada — and other middle powers — can no longer afford to rely solely on U.S. security guarantees and will need to make a significant reinvestment, both in terms of ideas and resources, in its foreign policy. 🏰

131 See, for example, Patrick T. Brandt, Justin George, and Todd Sandler, "Why Concessions Should Not Be Made to Terrorist Kidnappers," *European Journal of Political Economy*, no. 44 (September 2016): 41–52, <https://doi.org/10.1016/j.ejpoleco.2016.05.004>; Daniel Milton and Seth Loertscher, "Held Hostage: Analyses of Kidnapping Across Time and Among Jihadist Organizations," Combatting Terrorism Center at West Point, 2015, <https://ctc.usma.edu/held-hostage-analyses-of-kidnapping-across-time-and-among-jihadist-organizations/>; Christopher Mellon, Peter Bergen, and David Sterman, "To Pay Ransom or Not to Pay Ransom? An Examination of Western Hostage Policies," New America Foundation, Jan. 8, 2017, <https://www.newamerica.org/international-security/policy-papers/pay-ransom-or-not/>; Brian Michael Jenkins, "Does the U.S. No-Concessions Policy Deter Kidnappings of Americans?" RAND Corporation, 2018, <https://www.rand.org/pubs/perspectives/PE277.html>; Joel Simon, *We Want to Negotiate: The Secret World of Kidnapping, Hostages, and Ransom* (New York: Columbia Global Reports, 2019); and Gilbert, "No Concessions? A Closer Look at U.S. Hostage Recovery Policy."

132 Macartan Humphreys, "The Tragedy of the Commons (The Prisoner's Dilemma)," in *Political Games: Mathematical Insights on Fighting, Voting, Lying & Other Affairs of State* (New York: WW Norton & Company, 2016), https://media.wwnorton.com/cms/excerpts/POLITGAME_The_Prisoner%27s_Dilemma.pdf. While not a "prisoner's dilemma" in the strictest sense, the scenario illustrates the same central dynamics: States and other targets would all be better off "cooperating" (by refusing to make concessions, and thus deterring future arrests), but individual targets are always incentivized to "defect" from official policy to bring their citizens or loved one's home.

133 For work on kidnappings by nonstate actors, see the U.S. Hostage Recovery Fusion Cell, "Hostage Recovery Fusion Cell Marks Fifth Anniversary," Federal Bureau of Investigations, June 24, 2020, <https://www.fbi.gov/news/pressrel/press-releases/hostage-recovery-fusion-cell-marks-fifth-anniversary>. For a focus on unlawful detainees, see the Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act: "Senate Approves Robert Levinson Hostage Recovery and Hostage-Taking Accountability Act," Office of Sen. Bob Menendez, June 16, 2020, <https://www.menendez.senate.gov/newsroom/press/senate-approves-robert-levinson-hostage-recovery-and-hostage-taking-accountability-act>.

134 Elian Peltier, "Two French Soldiers Are Killed in Raid that Frees Four Hostages in Burkina Faso," *New York Times*, May 10, 2019, <https://www.nytimes.com/2019/05/10/world/africa/hostages-burkina-faso.html>.

135 Gilbert and Prather, "No Man Left Behind?"

136 Rivard Piché, "Standing on Guard."

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