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Andreas Kuersten

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## The Eagle and the Dragon: A Review of Cool War: The Future of Global Competition

### Keywords

War, European Union, Intellectual Property Law

# THE EAGLE AND THE DRAGON: A REVIEW OF COOL WAR: THE FUTURE OF GLOBAL COMPETITION\*

ANDREAS KUERSTEN\*\*

## I. INTRODUCTION

The image on the cover of Noah Feldman's latest book<sup>1</sup>—a dragon rising below a soaring eagle—is an apt representation of the rise of China in a world that has been dominated by the United States since the end of the Cold War.<sup>2</sup> The rapport between these two countries will likely determine their courses and that of international law and relations in general for decades to come. Will they interact more or less cooperatively? Or will they slip into the chilled, zero sum, and vicious competition that characterized the U.S.-U.S.S.R. relationship? In *Cool War: The Future of Global Competition* (“Cool War”), Feldman presents a situation closer to the latter scenario, along with predictions for how and where this contest will play out and strategies for how relations can and should be managed under modern and evolving international law and institutions.

In reviewing Feldman's book, it is important to place it within the scholarship and debates taking place over the impact of the U.S.-China relationship on international law, politics, and the international system generally. Feldman occupies a position warning of coming conflict—though not necessarily military—in a bipolar world. This view stands farther along the line of change from present circumstances than those predicting continued U.S. dominance and a Chinese collapse<sup>3</sup> or a more peaceful bipolar structure managed effectively by international institutions.<sup>4</sup> Feldman does not, however, go so far as those foreseeing a coming Chinese unipolar world<sup>5</sup> or a world without superpowers at all.<sup>6</sup>

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\* NOAH FELDMAN, *COOL WAR: THE FUTURE OF GLOBAL COMPETITION*, xi (2013).

\*\* Andreas Kuersten is a Legal Fellow with the National Oceanic and Atmospheric Administration, Office of General Counsel, International Section. The views expressed in this paper do not represent those of the U.S. Government and are solely those of the author.

1. NOAH FELDMAN, *COOL WAR: THE FUTURE OF GLOBAL COMPETITION* (2013).

2. The depiction on the cover appears popular among books analyzing modern U.S.-China relations. See, e.g., AARON L. FRIEDBERG, *A CONTEST FOR SUPREMACY: CHINA, AMERICA, AND THE STRUGGLE FOR MASTERY IN ASIA* (2011); JAMES STEINBERG & MICHAEL E. O'HANLON, *STRATEGIC REASSURANCE AND RESOLVE: U.S.-CHINA RELATIONS IN THE TWENTY-FIRST CENTURY* (2014).

3. See JAMES R. GORRIE, *THE CHINA CRISIS: HOW CHINA'S ECONOMIC COLLAPSE WILL LEAD TO A GLOBAL DEPRESSION* (2013); GORDON G. CHANG, *THE COMING COLLAPSE OF CHINA* (2001).

4. See G. JOHN IKENBERRY, *LIBERAL LEVIATHAN: THE ORIGINS, CRISIS, AND TRANSFORMATION OF THE AMERICAN WORLD ORDER* (2012).

5. See MARTIN JACQUES, *WHEN CHINA RULES THE WORLD: THE END OF THE WESTERN WORLD AND THE BIRTH OF A NEW GLOBAL ORDER* (2d. ed. 2012).

6. See Barry Buzan, *A World Order Without Superpowers: Decentred Globalism*, 25 INT'L REL.

In presenting his vision and prescriptions for the future, Feldman organizes the book into three sections: "Cool War,"<sup>7</sup> "The Sources of Chinese Conduct,"<sup>8</sup> and "Global Competition."<sup>9</sup> The first two seek to outline the situation between the United States and China and provide a glimpse of the machinery of Chinese leadership and motivations. The third section then uses the information presented in earlier sections to construct various predictions for how the Cool War will play out and recommendations for both sides on how to manage the coming confrontation.

Feldman professes his purpose as being to provide a clear and realistic view of present and future U.S.-China relations as well as ideas for the mitigation of confrontation.<sup>10</sup> While *Cool War* makes some interesting and provocative points, its analysis and recommendations appear aimed more at fighting the predicted Cool War than mitigating it. The work is therefore contradictory as to one of its stated purposes. Feldman also remains tightly focused on comparing the present day to the Cold War and his evaluations present these eras as becoming fundamentally identical but for some nuances as to the influences keeping the sides from open and more destructive conflict. Just as the United States and U.S.S.R. had to skirt around military encounters and nuclear weapons in their confrontation, the United States and China must do the same while also heeding their dense economic entanglement and interdependence. Thus, rather than offering recommendations for conflict management, Feldman presents the key factors that will influence present and future U.S.-China relations and methods for each side to proceed to their advantage.

Furthermore, the work as a whole lacks necessary degrees of nuance and extrapolation. It would have benefited greatly from additional length and cohesiveness given its complicated and important target material. As a result, while clearly crafted by a professor with enviable knowledge of government and international affairs, readers are ultimately left with a book that takes a narrow and somewhat disjointed look at the future of U.S.-China relations and pushes for aggravating policy from both sides while claiming to advance the opposite. While *Cool War* is still an interesting and unique read due to its pragmatic combination of political theory and cross-Pacific analysis, it is unlikely to be a defining work on the coming era of international politics or U.S.-China relations.

## II. COOL WAR

Feldman begins by presenting how unique the U.S.-China relationship is in history and exactly what the Cool War entails. From there he moves on to showing

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3 (2011); CHARLES A. KUPCHAN, *NO ONE'S WORLD: THE WEST, THE RISING REST, AND THE COMING GLOBAL TURN* (2013).

7. FELDMAN, *supra* note 1, at 3-51.

8. *Id.* at 55-98.

9. *Id.* at 101-66.

10. *Id.* at xiv ("Reducing the grave dangers of global conflict would serve the United States but also China and the world more generally. The purpose of this book is to start figuring out how we can do so, before it is too late.").

the powerful reasons for the United States and China to engage in both collaboration and confrontation. While it lacks some relevant detail, this section provides a good general impression of the motivations for each actor to pursue both courses of action.

Generally, the phrase “Cool War” captures a situation between countries that entails strong competing incentives for cooperation and conflict. Such a circumstance naturally brings to mind the Cold War, and Feldman begins his book by comparing modern times to this great standoff<sup>11</sup>—a theme he continues throughout the book. As outlined by Feldman, the Cool War appears to be Cold War-light: a clash of powerful competing states, but one with additional factors militating towards cooperation.

The situation between the United States and China has, as *Cool War* acknowledges, important differences from that between the United States and U.S.S.R. The Cold War foes engaged in little cooperation but for their talks, negotiations, and private maneuvers aimed at averting cataclysmic direct conflict.<sup>12</sup> Feldman asserts that a main reason for this lack of collaboration was the relative absence of trade between these states.<sup>13</sup> This stands in stark contrast to the deep economic entanglement that characterizes U.S.-China relations.<sup>14</sup> China owns approximately \$1.3 trillion in U.S. debt<sup>15</sup> while the United States is China’s largest trading partner with approximately \$560 billion in bilateral trade in 2013.<sup>16</sup> Where the United States and U.S.S.R. existed in almost completely separate economic systems, the United States and China inhabit the same one and, moreover, engage with one another to a phenomenal degree within it.

Whereas direct conflict was unsound during the Cold War because of the mutually assured destruction (“MAD”) made possible by nuclear weapons, the United States and China would additionally face “mutually assured economic destruction” (“MAED”) were they to engage in conflict.<sup>17</sup> MAD necessarily

11. The first sentence of the book asks “[a]re we on the brink of a new Cold War?” *Id.* at xi.

12. See, e.g., ROGER E. KANET & EDWARD A. KOLODZIEJ, *THE COLD WAR AS COOPERATION: SUPERPOWER COOPERATION IN REGIONAL CONFLICT MANAGEMENT* (1991) (analyzing Cold War cooperation between the United States and U.S.S.R. and finding that such interaction was almost entirely aimed at averting direct physical confrontation).

13. FELDMAN, *supra* note 1, at 7.

14. *Id.*

15. Max Fisher, *This Surprising Chart Shows Which Countries Own the Most U.S. Debt*, WASH. POST (Oct. 10, 2013), <http://www.washingtonpost.com/blogs/worldviews/wp/2013/10/10/this-surprising-chart-shows-which-countries-own-the-most-u-s-debt/> (presenting an interactive chart showing which countries currently own U.S. debt and how much). This situation brings to mind the famous quote from the great American industrialist, John Paul Getty, “[i]f you owe the bank \$100 that’s your problem. If you owe the bank \$100 million, that’s the bank’s problem.” *J. Paul Getty Quotes*, BRAINY QUOTE, <http://www.brainyquote.com/quotes/quotes/j/jpaulgett129274.html> (last visited Apr. 20, 2015).

16. *Trade in Goods with China*, U.S. CENSUS BUREAU, <http://www.census.gov/foreign-trade/balance/c5700.html#2013> (last updated Apr. 2, 2015). See also *Top 10 Trading Partners of the Chinese Mainland*, CHINA DAILY (Feb. 19, 2014, 8:21 AM), [http://www.chinadaily.com.cn/bizchina/2014-02/19/content\\_17290565.htm](http://www.chinadaily.com.cn/bizchina/2014-02/19/content_17290565.htm) (putting the figure for U.S./China trade in 2013 at approximately \$520 billion, but still listing the U.S. as China’s largest trading partner).

17. FELDMAN, *supra* note 1, at 12.

encompasses MAED, but MAED does not necessarily encompass MAD. While MAD still exists today as a disincentive to conflict, MAED is a relatively new beast, and Feldman argues that this supplementary risk makes both conventional and economic warfare irrational for both actors and provides a strong inducement for cooperation.<sup>18</sup> History is replete with destructive confrontation between established and rising powers, but “never before has the dominant world power been so economically interdependent with the rising challenger it must confront.”<sup>19</sup> The numbers speak for themselves in terms of the debt and trade at stake, and this situation provides a powerful motivation to avoid confrontation.

Feldman’s analysis of the forces for cooperation in the U.S.-China relationship is well articulated and commonsensical. It does, however, miss a key aspect of economic entanglement that may contradict his assertion that it is a purely cooperative factor. As noted above, economic entanglement creates a situation unique to the Cool War. Given the lack of economic connection between the United States and U.S.S.R. during the twentieth century, both could feel free to engage in economic actions against one another.<sup>20</sup> Yet this lack of connection also meant that both were more limited in terms of these actions than if they had engaged in robust trade. Conversely, the abundance of economic interaction between the United States and China means both are invested in the economic success of the other and are disinclined to act negatively in this manner.<sup>21</sup> Nevertheless, were they motivated to harm the other, their interconnectedness offers more of a chance to do so should their calculus determine that the benefits outweigh the costs, and states may be more willing to push the envelope when it comes to economic action as opposed to that involving kinetic weaponry.<sup>22</sup> These sorts of maneuvers can have a punishing impact while sparing risk in terms of intensification and violence.<sup>23</sup>

18. *Id.* at 8-13.

19. *Id.* at 15.

20. See GARY CLYDE HUFBAUER ET AL., *ECONOMIC SANCTIONS RECONSIDERED* 6 (3d ed. 2007) (concluding U.S. sanctions against the U.S.S.R. were not especially effective nor material in bringing about the latter’s collapse). See also James Gibney, *Sanction Russia? Reagan Tried it With no Luck*, BLOOMBERG (Mar. 17, 2014, 8:52 AM), <http://www.bloombergview.com/articles/2014-03-17/sanction-russia-we-ve-tried-this-before> (presenting a specific example of the ineffectiveness of U.S. economic action against the Soviet Union).

21. FELDMAN, *supra* note 1, at 8.

22. Examples of this are the United States’ sanctions regimes against both Russia and Iran. These measures were undertaken in place of physical responses to Iran’s nuclear program and Russia’s intervention in Ukraine. See, e.g., Rick Noack, *Will Sanctions Work Against Russia? Iran’s Experience Offers a Few Clues*, WASH. POST (July 31, 2014), <http://www.washingtonpost.com/blogs/worldviews/wp/2014/07/31/will-sanctions-work-against-russia-irans-experience-offers-a-few-clues/>.

23. See Leah McGrath Goodman & Lynnley Browning, *The Art of Financial Warfare: How the West is Pushing Putin’s Buttons*, NEWSWEEK (April 24, 2014, 6:06 AM), <http://www.newsweek.com/2014/05/02/art-financial-warfare-how-west-pushing-putins-buttons-248424.html> (outlining the crimping effect economic attacks can have on enemies while avoiding the “unwanted collateral damage” and risk that goes along with soldiers, guns, and bombs).

A recent example of this is the United States' economic action against Russia for its intervention in Ukraine's province of Crimea.<sup>24</sup> The strategy of economic rather than direct military engagement is meant to coerce Russia into abandoning its expansionist aims while avoiding, among other things, physical confrontation, more substantial diplomatic damage, and intense retaliation.<sup>25</sup> The United States and China's economic entanglement therefore provides a further chilling effect on expansive conflict on top of that provided by MAD, but also increases the likelihood of direct harmful measures being undertaken short of a physical clash. This situation makes the sources of cooperation put forth in *Cool War* slightly less black and white.

Yet even with these incentives to avoid conflict, Feldman laments, "[i]f only the world were so simple."<sup>26</sup> Standing in the way of cooperation are numerous factors pushing toward confrontation.<sup>27</sup> First among these in Feldman's mind are the forces of political realism.<sup>28</sup> This theory generally holds that international society is inhabited by states existing in anarchy with no guarantees of security.<sup>29</sup> This situation requires them to engage in constant competition and conflict in pursuit of their own national interests and power since they are the only guarantors of their own safety in an unpredictable and ungoverned world.<sup>30</sup>

China's overall rise coupled with the United States' relative economic decline, Feldman argues, changes the international balance of power.<sup>31</sup> China's desire for security in a tough neighborhood will lead it to seek to take advantage of this transformation.<sup>32</sup> Furthermore, beyond security, both the United States and China

24. These actions have included a litany of economic sanctions against key Russian individuals and businesses. See *Ukraine-Related Designations: 3/20/2014*, U.S. DEP'T OF THE TREASURY (Mar. 20, 2014), [http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20140320\\_33.aspx](http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/pages/20140320_33.aspx). See also *Ukraine-Related Designations: 4/28/2014*, U.S. DEP'T OF THE TREASURY (Apr. 28, 2014), <http://www.treasury.gov/resource-center/sanctions/OFAC-Enforcement/Pages/20140428.aspx>.

25. See Peter Feaver & Eric Lorber, *The Problem with Obama's Strategy of Graduated Escalation Towards Russia*, FOREIGN POLICY (Mar. 25, 2014, 4:16 PM), [http://shadow.foreignpolicy.com/posts/2014/03/25/problem\\_obama\\_strategy\\_graduated\\_escalation\\_towards\\_russia](http://shadow.foreignpolicy.com/posts/2014/03/25/problem_obama_strategy_graduated_escalation_towards_russia) (arguing economic rather than military action by the United States limits the extent of the conflict while allowing it to take initiative and put pressure on Russia).

26. FELDMAN, *supra* note 1, at 15.

27. It must be noted that every state engages in competition—to some degree—with every other state. Thus, "[c]ompetition is inevitable in the U.S.-China relationship, just as it is in any relationship among states. . . . The United States competes and occasionally has serious disagreements with even its closest allies." STEINBERG & O'HANLON, *supra* note 2, at 4. What are important are the reasons and degrees to which competition between the United States and China escalates beyond this normal interaction.

28. Feldman, *supra* note 1, at 17-19.

29. See, e.g., *Political Realism in International Relations*, STANFORD ENCYCLOPEDIA OF PHIL., <http://plato.stanford.edu/entries/realism-intl-relations/> (last updated Apr. 2, 2013) (defining political realism in international relations as "a view of international politics that stresses its competitive and conflictual side" where "states, which are concerned with their own security, act in pursuit of their own national interests, and struggle for power" on "a sphere without justice").

30. See *id.*

31. FELDMAN, *supra* note 1, at 19.

32. See, e.g., ANDREW J. NATHAN & ANDREW SCOBELL, CHINA'S SEARCH FOR SECURITY (2012)

have interests in remaining the sole superpower and challenging that role, respectively. Feldman claims these “reasons are both psychological and material” in terms of perceptions of strength providing domestic and international support and respect as well as favorable trade and other more quantifiable benefits.<sup>33</sup> This situation “gives China the means, opportunity, and motive to alter the global arrangement in which the United States is the world’s sole superpower.”<sup>34</sup> According to realist doctrine, this is an opportunity that no state will pass up, and, “[u]nder the circumstances, a shooting war is not unavoidable—but conflict is.”<sup>35</sup>

Pushing in the same direction as the forces of realism, Feldman continues, are the influences of nationalism and ideology.<sup>36</sup> As China’s power grows on the international stage<sup>37</sup> the government and citizenry may demand more assertiveness to go along with its stature.<sup>38</sup> Additionally, should China’s economic growth slow from the tremendous pace it has sustained over the last few decades,<sup>39</sup> the Communist Party may resort to nationalism to maintain legitimacy.<sup>40</sup> In turn, “[a]s the United States continues to struggle economically, we can expect increasing nationalism from its citizens and the politicians who represent them” since this “deflects attention away from the internal causes of problems and toward external sources of trouble.”<sup>41</sup> Both of these nationalisms will be focused on the other respective state and will act as powerful variables driving toward conflict.

In general, the forces of political realism and nationalism appear safe bets to be placed in the category of confrontational forces. Concerns for security and pride will likely tend toward asserting oneself against a powerful other, and Feldman presents these issues well. In terms of ideology, however, Feldman provides a less than full picture of the situation. He contends there is a “one-sided war of ideas” being pushed by the United States in which it submits China to ideological pressure while China applies none in return.<sup>42</sup> Where China is presented in terms of “ideological pragmatism,” the United States is portrayed as more evangelist and unable to accept China’s lack of democracy, law, and human rights.<sup>43</sup> What results is an antagonistic relationship in which China seeks to conduct foreign policy

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(putting forth, generally, that China’s core interest is security since it resides in an unpredictable region of the world filled with powerful actors while simultaneously dealing with areas of discontent within its borders).

33. FELDMAN, *supra* note 1, at 25-28.

34. *Id.* at 19.

35. *Id.*

36. *Id.* at 32-34.

37. See, e.g., *China Seen Overtaking U.S. as Global Superpower*, PEW RES. CTR. (July 13, 2011), <http://www.pewglobal.org/2011/07/13/china-seen-overtaking-us-as-global-superpower/> (analyzing data showing that global opinion sides with China replacing the United States as the global superpower).

38. FELDMAN, *supra* note 1, at 33.

39. *Data: China*, WORLD BANK, <http://data.worldbank.org/country/china> (last visited Apr. 20, 2015).

40. FELDMAN, *supra* note 1, at 33.

41. *Id.* at 34.

42. *Id.* at 35.

43. *Id.* at 38-39.



without reference to the internal structure or actions of other states while the United States continuously pressures China to change and even challenges the Communist Party's legitimacy.<sup>44</sup>

However, China's stance in favor of strict nonintervention in the internal affairs of other states and favoring of stability and economic growth over human rights is an ideology.<sup>45</sup> Furthermore, it is one that China presents to and encourages around the globe through its actions on the United Nations Security Council,<sup>46</sup> trade policy,<sup>47</sup> and general diplomacy.<sup>48</sup> Just as the United States and western states push for internal change within China on numerous fronts and for China to take tangential issues into account when engaging in international trade,<sup>49</sup> China pushes back that

44. *Id.*

45. See MERRIAM-WEBSTER, <http://www.merriam-webster.com/dictionary/ideology> (last visited Apr. 20, 2015) (defining "ideology" as: "a: a systematic body of concepts especially about human life or culture; b: a manner or the content of thinking characteristic of an individual, group, or culture c: the integrated assertions, theories and aims that constitute a sociopolitical program"). See also Elizabeth C. Economy, *The Game Changer: Coping with China's Foreign Policy Revolution*, 89 FOREIGN AFF. 142, 146 (2010) (putting forth that foreign countries are excited by what they see as "the China model," which stands as an alternative to the models of the West); Sonya Sceats & Shaun Breslin, *China and the International Human Rights System*, CHATHAM HOUSE 1, 42 (2012), available at [http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/r1012\\_sceatsbreslin.pdf](http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/r1012_sceatsbreslin.pdf) ("China's insistence that each state must define its own human rights priorities does not apply only to itself. The key here is not what China does, but instead the idea that countries should 'nationalize' supposedly universal values to fit their own experiences.").

46. See, e.g., *Security Council—Veto List*, UNITED NATIONS, <http://research.un.org/en/docs/sc/quick/veto> (last updated Apr. 20, 2015) (cataloguing veto use by permanent members of the U.N. Security Council and showing China's increased use of this mechanism in the past decade). China also arguably has had a policy of abstaining from U.N. votes where pressuring states to engage in certain actions is at issue. Christopher Holland, *Chinese Attitudes to International Law: China, the Security Council, Sovereignty, and Intervention*, N.Y.U. J. INT'L L. & POL. ONLINE FORUM 1, 10 (2012), available at <http://nyujilp.org/wp-content/uploads/2012/07/Christopher-Holland-China-the-Security-Council-and-Intervention.pdf>.

47. How a government governs is of little concern for China in deciding to conduct trade with a state. See Economy, *supra* note 45, at 146 ("The willingness of the Chinese government and its state-owned enterprises to do business anywhere, anytime, and at any price has become legendary."). See also *China's Big Investment*, PBS NEWSHOUR (July 5, 2005, 12:00 AM), [http://www.pbs.org/newshour/bb/asia-july-dec05-china\\_7-05/](http://www.pbs.org/newshour/bb/asia-july-dec05-china_7-05/) (quoting Sierra Leone's ambassador to China saying: "They just come and do it. We don't start to hold meetings about environmental impact assessments and human rights and bad governance and good governance.").

48. See *Principles of China's Foreign Policy*, ASIA FOR EDUCATORS, [http://afe.easia.columbia.edu/special/china\\_1950\\_forpol\\_principles.htm](http://afe.easia.columbia.edu/special/china_1950_forpol_principles.htm) (last visited Apr. 20, 2015) (explaining China's foreign policy decisions "derive from the Five Principles of Peaceful Coexistence: mutual respect for sovereignty and territorial integrity, mutual non-aggression, non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence.").

49. See U.S. DEP'T OF STATE, CHINA (INCLUDES TIBET, HONG KONG, AND MACAU): 2013 HUMAN RIGHTS REPORT (2013), available at <http://www.state.gov/documents/organization/220402.pdf> (providing the official U.S. view of human rights in China and stating that China's record in this regard is severely negative); Tim Collard, Op-Ed., *China-UK Human Rights Dialogue Builds Bridges to Understanding*, S. CHINA MORNING POST (Apr. 22, 2014, 10:46 PM), <http://www.scmp.com/comment/article/1494431/china-uk-human-rights-dialogue-builds-bridges-understanding> (asserting that western pressure on China over its internal affairs is a "well-understood part of the bilateral relationship").

these countries should not be concerned with the internal affairs of others.<sup>50</sup> The ideological conflict is therefore two-sided, with the United States' "responsible sovereignty" on one side and China's "pure sovereignty" on the other. This situation serves to make ideology an even more potent force pushing towards confrontation than Feldman presents.

With the cooperative forces of MAD, MAED, and favorable debt and trade figures pushing against the confrontational influences of realism, nationalism, and ideology, Feldman outlines the interesting balancing act that the Cool War entails. These are the general factors policy makers on both sides of the Pacific must be aware of and navigate in managing relations going forward.

### *Sidelight on Taiwan*

Beyond sources of cooperation and confrontation, Feldman offers what he considers a likely scenario for how China may establish itself as a superpower. Key to displaying and asserting this status, he puts forth, is Taiwan.<sup>51</sup> Since the Kuomintang fled to the island following the Chinese Civil War, China has had a deep interest in its reabsorption.<sup>52</sup> Feldman contends that this can be done while simultaneously establishing China as a global superpower through a gradual military buildup resulting in "a situation where the United States would not consider war as a serious option."<sup>53</sup> Essentially, China would ratchet up the cost of war in the eyes of the United States to the point where it was no longer tenable.

This tactic, Feldman insists, has been used by China in the past, in the case of Hong Kong. In that situation, British "Prime Minister Margaret Thatcher intended to maintain some sort of British administration even after her country's ninety-nine-year 'lease' on Hong Kong expired in 1997."<sup>54</sup> But "China's military capacity meant the British could not seriously contemplate fighting China the way Britain had fought (and defeated) Argentina."<sup>55</sup> Similarly, if China increased its military capacity, promised the "one country, two systems" solution it applied to Hong Kong, and the United States was able to save face with its allies and the world by claiming "Taiwan was in a basic sense different from the rest of Asia," this, to Feldman, could resolve the situation around the Taiwan Strait. Taiwan would accept reabsorption and this would simultaneously "mean that China was on a par with the United States

50. See Christopher Bodeen, *US Envoy Says Rights Talks With China Yield Little*, YAHOO! (Apr. 28, 2014, 7:37 AM), <http://news.yahoo.com/china-media-us-human-rights-pressure-fail-074704992.html> ("As China is a sovereign nation, there is zero possibility of it allowing the U.S. to dictate its political development. . . . We also are opposed to the United States using human rights as a pretext for interfering in China's internal affairs."). See also Sceats & Breslin, *supra* note 45, at 45 ("China frequently invokes the principle of non-interference or non-intervention to challenge the legitimacy of criticisms of its human rights record or to register its objections to similar criticisms directed at its allies.").

51. FELDMAN, *supra* note 1, at 20.

52. See, e.g., Michal Roberge & Youkyung Lee, *China-Taiwan Relations*, COUNCIL ON FOREIGN RELATIONS, <http://www.cfr.org/china/china-taiwan-relations/p9223> (last updated Aug. 11 2009) (outlining a concise history of the modern Chinese-Taiwanese relationship).

53. FELDMAN, *supra* note 1, at 22.

54. *Id.* at 21.

55. *Id.*

as a global superpower.”<sup>56</sup> In establishing this hypothetical as plausible, Feldman asks a simple question: “Would the president of the United States go to war with China over Taiwan absent some high-profile, immediate crisis capable of mobilizing domestic support?”<sup>57</sup> The costs of physical conflict would be too high, he concludes, and, given the scenario above, the United States would likely accept Chinese reabsorption of Taiwan.<sup>58</sup>

The prediction above—or recommendation for China’s Taiwan policy—is a bold one. The situation across the Taiwan Strait is one of the most contentious in the world, and, as such, has many layers. Feldman’s analysis is interesting and offers a highly plausible general scenario. He is convincing in arguing that the maintenance of America’s place and security guarantees in Asia is key to any U.S. acceptance of Taiwan’s reabsorption into China. The United States would be highly interested in ensuring that its Asian allies remained confident in its promises of protection and that a costly and dangerous arms race did not develop. A problem with Feldman’s examination, however, is that he sees the state of affairs across the Taiwan Strait as involving only two actors: the United States and China.<sup>59</sup> He completely ignores the agency of Taiwan. In addition, there is an argument for possible Chinese restraint in the face of U.S. absence and Feldman’s likening of Taiwan’s possible reabsorption by China to Hong Kong’s transition appears problematic.

Feldman ventures that, “[a]fter the United States signaled its inability or unwillingness to defend Taiwan, the people of Taiwan would, presumably, publicly acquiesce in their own reabsorption into China’s sovereign sphere.”<sup>60</sup> But Taiwan is not simply a pawn sitting between the United States and China. It has consistently exercised its autonomy in pushing the situation in directions it wishes and forcing the two larger powers to react.<sup>61</sup> Furthermore, it is—functionally, if not legally—its own state, and significantly more Taiwanese support independence when forced to choose between that and unification.<sup>62</sup> This support is influenced by the threat of

56. *Id.* 22-23.

57. *Id.* at 22.

58. *Id.*

59. *Id.* at 20-23.

60. *Id.* at 22.

61. Shelley Rigger, *Taiwan in U.S.-China Relations*, in *TANGLED TITANS: THE UNITED STATES AND CHINA*, 293, 293 (David Shambaugh ed., 2013) (“Taiwan’s capacity to deliver game-changing initiatives keeps American and Chinese policy makers in a reactive mode much of the time.”). An example of this is the Third Taiwan Strait Crisis in 1995-96. This was largely triggered by the actions of then Taiwanese President Lee Teng-Hui and his influence in getting the U.S. Congress to override then President Clinton’s opposition to issuing him a visa to speak at Cornell University. China reacted aggressively, the United States was forced to display its military commitment to Taiwan, and the two larger powers engaged in a very tense exchange. See, e.g., Robert S. Ross, *The 1995-96 Taiwan Strait Confrontation*, 25 *INT’L SECURITY* 87 (2000).

62. Chris Wang, *Taiwanese Prefer Independence Over Unification: Survey*, *TAIPEI TIMES* (Oct. 31, 2013), <http://www.taipeitimes.com/News/front/archives/2013/10/31/2003575806> (“[T]he poll found that most respondents favored independence over unification if they were asked to choose between just those two options, with 71 percent supporting independence and only 18 percent supporting unification with China.”).

Chinese retaliation against any such declaration, and even more would endorse independence without such coercive influence.<sup>63</sup> Segments of Taiwan's population have also shown their willingness to engage in violent protest against strengthening economic ties between the island and China.<sup>64</sup> In addition, China's recent limitations on democracy in Hong Kong and resulting civil unrest, despite the "one country, two systems" assurances it gave at the time of Hong Kong's reabsorption, have probably increased resistance in Taiwan to closer relations with the mainland.<sup>65</sup> It is therefore not a given that Taiwan and its people would accept Chinese rule peacefully if overtly coerced, whether this means militarily defending themselves or the public reacting violently against their own government under a "one country, two systems" arrangement or an installed government from the mainland.

There is also an argument to be made that China may exercise restraint in a situation where it knows the United States will not provide security for Taiwan. Much of China's discomfort and anxiety concerning the island comes from fears that Taiwan will declare independence and the mainland will be forced to undertake brash and damaging action—damaging to both others and itself.<sup>66</sup> During calm times, China has shown a willingness to allow its connection with Taiwan to develop slowly and peacefully.<sup>67</sup> Should the United States remove itself from the equation,

63. See Yuan-Kang Wang, *Taiwan Public Opinion on Cross-Strait Security Issues: Implications for US Foreign Policy*, 7 STRATEGIC STUD. Q. 93, 99-100 (2013) (citing the 2011 Taiwan National Security Survey that found that "65.7 percent of respondents opposed independence if it would cause a war with China. Without China's threat of war, however, independence enjoys widespread support among Taiwan's public."). See also Emerson Niou, *The China Factor in Taiwanese Politics*, 63 J. SOC. SCI. 55, 61 (2011) ("[M]any people are attracted to the idea of Taiwan becoming an independent country but only if China [will] not use force to stop that from happening."); Emerson M.S. Niou, *A New Measure of Preferences on the Independence-Unification Issue in Taiwan*, 40 J. ASIAN & AFRICAN STUD. 91 (2005) (showing that a large percentage of Taiwanese would support Taiwan declaring independence if China is guaranteed not to use force against it).

64. See, e.g., Austin Ramzy, *Taiwan Stands Behind Use of Force Against Protesters*, N.Y. TIMES (March 24, 2014), [http://www.nytimes.com/2014/03/25/world/asia/taiwan-defends-use-of-force-against-protesters.html?\\_r=0](http://www.nytimes.com/2014/03/25/world/asia/taiwan-defends-use-of-force-against-protesters.html?_r=0) ("At least 174 people, including 119 police officers, were wounded" in violent protests against "[t]he China trade bill").

65. See, e.g., Benny Avni, *Beijing's Crushing of Democracy in Hong Kong Sends Chills Through Taiwan*, NEWSWEEK (Oct. 20, 2014, 12:10 PM), <http://www.newsweek.com/2014/10/31/beijings-crushing-democracy-hong-kong-sends-chills-through-taiwan-278455.html> ("[T]he clash between democracy defenders and guardians of Communist doctrine is reverberating in many of China's provinces and is dimming its hope of peacefully annexing the independent island of Taiwan and uniting it with the mainland.").

66. See Jia Qingguo & Alan D. Romberg, *Taiwan and Tibet*, in DEBATING CHINA: THE U.S.-CHINA RELATIONSHIP IN TEN CONVERSATIONS 176, 177-78 (Nina Hachigian ed., 2014) ("The Chinese government believes that the best way to resolve the Taiwan problem is through peaceful dialogue, consultation, and negotiation. However, it has repeatedly announced that it is ready to fight a war to defend China's territorial integrity if Taiwan moves toward independence.").

67. An example of this is China not objecting to Taiwan's participation as an observer at the World Health Assembly in 2009, the first time the latter was granted observer status at a U.N. body since it lost its seat at the United Nations to China in 1971. Roberge & Lee, *supra* note 52, at *Significance of the Rapprochement*. Another example is the early 2014 cross-strait diplomatic encounter between China and Taiwan, the first since 1949. Michael Pizzi, *What's Next for China-Taiwan Relations?*, AL JAZEERA (Feb. 15, 2014, 9:00 AM), <http://america.aljazeera.com/articles/2014/2/15/what-s-next-for->

the risks of unilateral independence to Taiwan and China would move in opposite directions, significantly increasing for the former and decreasing for the latter. China would therefore face much more freedom of action and may not necessarily engage in explicit coercion. It would have the peace-of-mind to let things develop in a more or less mutually pleasing and peaceful fashion. China also likely has little desire to absorb a restless territory—to go along with Tibet and Xinjiang—when it could have an appeased one. In addition, peaceful transition would help China's image in the region, which has taken a hit as a result of its forceful rhetoric and actions in the South China Sea and island dispute with Japan.<sup>68</sup> Taiwan would not necessarily have to simply “acquiesce” to Chinese reabsorption, but could engage in meaningful negotiations and population pleasing actions to make the process as seamless as possible.

Finally, Feldman's likening of the situation across the Taiwan Strait to that of Hong Kong's reabsorption is puzzling. These two circumstances are quite different. Hong Kong was firmly under the rule of a recognized and influential world power: the United Kingdom.<sup>69</sup> There was also an agreement between China and the United Kingdom setting a date for the resumption of Chinese sovereignty.<sup>70</sup> The United Kingdom was therefore naturally far less inclined to fight for continuing control over Hong Kong than for the Falkland Islands, which were permanently claimed against the competing claims of Argentina.<sup>71</sup> While then Prime Minister Thatcher may have entertained notions of maintaining British dominion over Hong Kong, the appeasements offered by China were more likely meant to streamline the region's peaceful reintegration rather than avoid a war with the United Kingdom.

Taiwan, on the other hand, has existed in opposition to China and the Communist Party since the Chinese Civil War. The Kuomintang fled their defeat at the hands of Mao Zedong and the communists and continued the international entity of the Republic of China on the island of Taiwan.<sup>72</sup> Unlike the United Kingdom, which had sovereign control over Hong Kong, the United States makes no claim of ownership over Taiwan. The United States does not even maintain an explicit security guarantee for the island.<sup>73</sup> Rather, it conducts itself under the foreign policy

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chinataiwanrelations.html.

68. See, e.g., Seth Robson, *China's Aggressive Tactics Turning off Asian Neighbors*, STARS & STRIPES (June 25, 2013), <http://www.stripes.com/china-s-aggressive-tactics-turning-off-asian-neighbors-1.226581> (“[A] series of clashes over territorial disputes and Beijing's tendency to economically punish those who get in its way have encouraged many Asian nations to reassess their choices—an increasingly aggressive Chinese dragon or a more distant and relatively benign America.”).

69. See *Hong Kong Profile*, BBC (Dec. 3, 2014), <http://www.bbc.com/news/world-asia-pacific-16526765>.

70. See *id.*

71. See *Key Facts: The Falklands War*, BBC, <http://news.bbc.co.uk/2/shared/spl/hi/guides/457000/457033/html/> (last visited Apr. 21, 2015).

72. See Roberge & Lee, *supra* note 52.

73. See, e.g., DEAN P. CHEN, *US TAIWAN STRAIT POLICY: THE ORIGINS OF STRATEGIC AMBIGUITY* (2012) (analyzing the origins of the U.S.'s stance of “strategic ambiguity” toward Taiwan, under which it does not make explicit its commitment to defend the island nor state that it will not do so in the event of Chinese aggression).

doctrine of “strategic ambiguity” whereby it maintains that it “does not endorse unification or independence; instead, it emphasizes that whatever relationship develops in the Strait, it must come about through a peaceful process.”<sup>74</sup> Such a stance creates the possibility that the United States will militarily ensure Taiwan’s security without explicitly establishing this. Furthermore, there is no agreement in place for the peaceful reabsorption of Taiwan into China. Hong Kong is a region that alternately belonged to different recognized states by international agreement with an established transfer mechanism. Taiwan, by contrast, is a separate and self-governing entity that belongs to no framework for Chinese reabsorption, and was in fact founded on hostility to the mainland. The two situations are starkly different and Feldman’s likening of them appears inaccurate and unconvincing.

It is still conceivable, however, that the Taiwan scenario presented by *Cool War* could occur, but this is because it is simple and underdeveloped. It is true that the display and threat of U.S. force has been a dominant factor in maintaining the separation of Taiwan and China.<sup>75</sup> Under current national trajectories—the rise of China and the relative decline of the United States—the day may very well come when the United States no longer finds it advantageous to continue this stance. The subtraction of U.S. military might from the equation would fundamentally alter the situation and could result in, as Feldman predicts, Taiwan publicly acquiescing to Chinese reabsorption. But it could also result in, among other things, continued separation, more substantial negotiation, protest, or violence—public or military. Feldman offers no argument for his prediction of acquiescence to reabsorption due to military pressure other than “because China can” and “Taiwan would have to.”<sup>76</sup> As noted above, there are numerous factors that make such a rudimentary argument unconvincing.

### III. THE SOURCES OF CHINESE CONDUCT

The second main section of *Cool War* attempts to provide a glimpse into the inner workings of the Chinese government. The title of this part of the book leads one to believe that Feldman intends to explain the sources of Chinese foreign policy. Feldman also hints at this by stating that “[i]t is not possible to understand the dynamics of a cool war unless we have a more sophisticated understanding of the Chinese Communist Party.”<sup>77</sup> The section, however, actually does nothing of the sort. Rather, it is best understood as an argument for the rationality and likely longevity of the Chinese system. There are faint mentions of broad foreign policy motivations, but these are not expounded upon.<sup>78</sup>

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74. Rigger, *supra* note 61, at 305.

75. Such actions were key in diffusing each of the Taiwan Strait Crises in 1954-55, 1958, and 1996-97, respectively. See *Taiwan Strait Timeline*, CTR. FOR STRATEGIC AND INT'L STUDIES, <http://csis.org/files/media/csis/programs/taiwan/timeline/pt4.htm> (last visited Apr. 21, 2015).

76. FELDMAN, *supra* note 1, at 22.

77. *Id.* at xiii.

78. *Id.* at 98 (“The Chinese leadership is highly rational and self-interested. Its interests are tied to continued economic growth”).

Feldman begins the section with a lengthy exposition of the events concerning the fall of former prominent Chinese official Bo Xilai, who was undone by both his own corruption and that of his wife.<sup>79</sup> Feldman asserts that this situation can be interpreted in one of two ways. First, it can be read as a confirmation of the popular view that the Chinese leadership is corrupt, immune from the law, and made up of hereditary elite known as “princelings.”<sup>80</sup> Alternatively, it can be seen as showing China creating a durable and legitimate governing structure able to handle these sorts of destabilizing events.<sup>81</sup> Feldman takes the latter view. He emphasizes that the Chinese Communist Party (“CCP”) has developed “[a] mixed or permeable elite; regular transitions; accountable government; and the emerging, if incomplete, battle against corruption.”<sup>82</sup> Together, it is argued, “[these] represent an attempt to create a durable and legitimate governing structure.”<sup>83</sup>

In terms of China’s mixed/permeable elite, *Cool War* stresses that “[t]he leadership of the Communist Party is made up of meritocrats *and* princelings. And despite their head start over pure meritocrats, those princelings must still display merit to advance.”<sup>84</sup> This allows all candidates “a realistic chance to enter the elite” and avoids a higher risk of conflict and “a classic revolutionary situation” where an insulated hereditary elite excludes talented individuals from power.<sup>85</sup> The advantages of both family and merit systems are realized as the benefits of being a princeling and exist without eliminating the potential for skilled but unconnected individuals to succeed.<sup>86</sup> Chinese leadership also allows for the development of factions within the CCP, further fashioning a more mixed government.<sup>87</sup> Examples of this are the divides between the princelings and meritocrats and the left and right.<sup>88</sup>

The Chinese government has also managed to put in place a reliable method of power transition. Generally:

Power is being regularly shifted from one generation to the next. Each cohort of senior Politburo members and Standing Committee members that is selected comes from a particular age cohort of around ten years. No matter how talented you are, you must wait your turn.<sup>89</sup>

This rotation serves the same general function that elections do in democratic societies. It incentivizes elites to respect current leaders when they are out of power

79. *Bo Xilai Scandal: Timeline*, BBC (Nov. 11, 2013), <http://www.bbc.com/news/world-asia-china-17673505> (providing a timeline on Bo Xilai’s fall from power). See also *Profile: Bo Xilai*, BBC (Sep. 22, 2013), <http://www.bbc.com/news/world-asia-china-19709555> (providing a profile on Bo Xilai).

80. FELDMAN, *supra* note 1, at 65.

81. *Id.* at 65-70.

82. *Id.* at 69.

83. *Id.* at 70.

84. *Id.* at 66.

85. *Id.* at 77.

86. *Id.* at 76.

87. *Id.* at 80-82.

88. In China, the left are conservatives who seek to conserve some form of traditional communism and the right are those who wish to move more in the direction of markets. *Id.* at 81.

89. *Id.* at 83.

because they can expect to attain it in the future.<sup>90</sup> Similarly, elites rule with the expectation of eventually losing power.<sup>91</sup> Solving the problem of power transition is an important factor in a government's stability, and China's method "has shown that it can operate predictably and effectively."<sup>92</sup>

Though the CCP has not gone so far as to make itself publicly accountable through elections, limited avenues of government accountability have developed. The Party engages in a great deal of censorship but does allow what Feldman calls "selective free speech."<sup>93</sup> This entails the government allowing the public to be more expressive on certain topics than others.<sup>94</sup> The benefits of this strategy include: the providing of information and public opinion to the CCP; the venting of frustrations by the public that may otherwise express themselves more harmfully; and the focusing of the public on the speech it is able to conduct rather than that which is censored.<sup>95</sup> In terms of accountability, the limited expression of public opinion is the most important factor. Feldman holds that "[t]he party must attend to public opinion so seriously because it knows that it cannot survive as the ruling party without preserving its legitimacy."<sup>96</sup> Limited free speech serves this function because "[t]he trick is to find ways to ascertain public opinion without waiting for serious objections to the system to grow or develop."<sup>97</sup>

In order to further cement its legitimacy and longevity, the CCP has also undertaken its own unique method to combat corruption. Rather than establishing the rule of law, like in the West, China "operates a Central Discipline Inspection Commission, and periodically runs anticorruption campaigns in which thousands of members are investigated and punished."<sup>98</sup> In addition, when party members are shown to be corrupt, they are visibly purged.<sup>99</sup> This is all meant to keep corruption from escalating to truly damaging levels and to convince the public the government cares about stopping it.<sup>100</sup>

Taken together, Feldman's points provide an argument for the durability of the CCP and an interesting cursory introspection into factors that maintain a government's rule—a mixed/permeable elite, peaceful transitions, accountability, and fighting corruption. It does not, however, accomplish what the title of the section implies: namely, provide explanation for the sources of Chinese conduct. The four factors noted above provide little insight into how China would handle a given Cool War situation. If Taiwanese leadership were to once again move toward independence, knowledge of the Chinese government's permeability, transitions,

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90. *Id.* at 82.

91. *Id.*

92. *Id.* at 85.

93. *Id.* at 90.

94. *Id.*

95. *Id.*

96. *Id.* at 91.

97. *Id.*

98. *Id.* at 95.

99. *Id.*

100. *Id.* at 94-95.



accountability, or corruption provides, at best, modest insight into the regime's mechanisms for formulating a response or what that might be. Similarly, these factors contribute relatively little to understanding how China might handle the United States and western states suddenly using the World Trade Organization ("WTO") as a forum for human rights issues.<sup>101</sup>

This portion of the book therefore feels incongruous with the rest. *Cool War*, overall, professes to present the coming age of international relations, U.S.-China relations, and their dynamic.<sup>102</sup> A section on Chinese government structure, foreign policy formulation, and the domestic actors principally involved in this would have been highly useful to include. *Cool War*, therefore, does not deliver a comprehensive work on the Cool War. Readers are left to turn elsewhere for information on and analysis of China's leadership and foreign policy complex that will actually engage in this enterprise.<sup>103</sup>

Yet this section does make a different contribution to Feldman's overall argument, though not as important as a section on Chinese foreign policy formulation would have provided. There exists a substantial body of literature arguing that the CCP will face important impediments in the near future and seriously questioning its possible longevity and potential.<sup>104</sup> Such arguments fundamentally contradict Feldman's prediction of a Cool War developing between the United States and China—one staunchly democratic and the other single party authoritarian. If the CCP were to crumble or institute democracy, these core differences—or at least their importance—would evaporate and a Cool War would be difficult to put forth. Feldman is showing that the Chinese government, more or less as it exists today, has developed innovative measures addressing its weaknesses and will be around for some time. Though likely unworthy of the large amount of space allocated to it in the book, this argument is important for establishing the importance and likelihood of Feldman's core assertions.

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101. See *infra* pp. 117-18.

102. FELDMAN, *supra* note 1, at xi-xiv.

103. There are a number of works on these subjects. POLITICS IN CHINA: AN INTRODUCTION (William A. Joseph ed., 2nd ed. 2014); RICHARD MCGREGOR, THE PARTY: THE SECRET WORLD OF CHINA'S COMMUNIST RULERS (2010); SUSAN L. SHIRK, CHINA: FRAGILE SUPERPOWER (2007). See also DEBATING CHINA: THE U.S.-CHINA RELATIONSHIP IN TEN CONVERSATIONS (Nina Hachigian ed. 2014) (presenting the major foreign policy issues between the U.S. and China in the form of ten conversations between different American and Chinese specialists).

104. See, e.g., G. John Ikenberry, *The Rise of China, the United States, and the Future of the Liberal International Order*, in TANGLED TITANS: THE UNITED STATES AND CHINA, 53, 68 (David Shambaugh ed., 2013) ("There is little evidence that authoritarian states can become truly advanced societies without moving in a liberal democratic direction."). See also GIDEON RACHMAN, ZERO-SUM FUTURE: AMERICAN POWER IN AN AGE OF ANXIETY 283 (2011) (quoting Kishmore Mahbubani as stating, "China cannot succeed in its goal of becoming a modern developed society until it can take the leap and allow the Chinese people to choose their own rulers.").

## IV. GLOBAL COMPETITION

The previous sections have outlined the cooperative yet conflictive nature of the Cool War, the sources of these influences, and the War's likely longevity given the stability of the Chinese regime. So, what will be the battlefields of the Cool War and how will the global competition between the United States and China be carried out? In the final portion of his book, Feldman presents what he thinks will be the core areas of contention between these great powers. But the absence of key and obvious points of conflict and a clear focus on prescription rather than explanation show that Feldman is actually most concerned with providing recommendations for how each side can non-violently fight the Cool War. In addition, though stated as a main purpose of this work,<sup>105</sup> little is ultimately offered in terms of suggestions for how the sides can keep their heated competition from escalating.<sup>106</sup>

First and foremost, as with the Cold War, the Cool War will involve a "race for allies."<sup>107</sup> Just as the United States and U.S.S.R. utilized carrots and sticks to load their respective blocs with members in an effort to legitimize and bolster themselves while isolating the other, U.S.-China relations will feature a similar dynamic. Principally, in the near-term, this interplay will take place in the Pacific, where China does not wish to be contained<sup>108</sup> and the United States seeks to maintain its valuable economic and strategic positions.<sup>109</sup> Moving forward, Feldman recommends that China ally itself with those states considered "bad actors" by the West.<sup>110</sup> In this regard, it possesses an advantage over the United States in its attractiveness to these states with its authoritarian government and non-interventionist ideology.<sup>111</sup> On the other side, Feldman holds that the United States should develop a "democratic league" to counter China's rise and pressure it to westernize.<sup>112</sup> Cool War alliances will, however, be unique in that "security alliances with one side can be reconciled with economic relationships to the other: indeed, that is the central characteristic of cool war."<sup>113</sup>

Along with alliances, Feldman asserts that international law and institutions will take on increasing importance in the Cool War.<sup>114</sup> Since physical confrontation

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105. FELDMAN, *supra* note 1, at xiv.

106. The only true calming recommendations come at the very end of the book where Feldman offers three ideas for how the Cool War can be managed short of physical conflict. These recommendations, however, are incredibly vague and more or less simply things to keep in mind when developing one's own ideas for managing the competition. *Id.* at 163-64.

107. *Id.* at 101.

108. *Id.* at 104. See also James B. Steinberg, *Conclusion*, in *DEBATING CHINA: THE U.S.-CHINA RELATIONSHIP IN TEN CONVERSATIONS* 221, 223 (Nina Hachigian ed., 2014) ("Several Chinese [experts]. . . attribute much of the difficulty [in U.S.-China relations] to the perception in China that the United States is pursuing a policy of containment.").

109. FELDMAN, *supra* note 1, at 104.

110. *Id.* at 108-10.

111. See *id.* at 108 ("In essence, an invitation to allegiance with China functions as a kind of blank check on domestic affairs.").

112. *Id.* at 110-16.

113. *Id.* at 143.

114. *Id.* at 119.

is largely untenable, these mechanisms and forums will be the principal points of contact and conflict between the United States and China.<sup>115</sup> Feldman claims that “[t]he irrelevance of the UN Security Council is coming to an end.”<sup>116</sup> While the contention that the Security Council has become irrelevant is highly debatable,<sup>117</sup> the body has begun to taken on somewhat of the role it did during the Cold War when the United States and U.S.S.R. used it as a primary platform to engage one another and jostle for position.<sup>118</sup> The debates and decisions of the Council in reference to the continuing Syrian Civil War are an example of this.<sup>119</sup> While the United States and the West push for respect for human rights and government accountability, China—joined by Russia—advocates respect for state sovereignty.<sup>120</sup>

Beyond the Security Council, Feldman predicts the WTO will also be a key venue in the Cool War.<sup>121</sup> It is a powerful organization “devoted to facilitating international trade” and resolving disputes whose judgments are largely obeyed.<sup>122</sup> Member states may bring claims before the WTO and, if they win, may penalize the member states that have wronged them.<sup>123</sup> Members are incentivized to cooperate with WTO regulations and rulings in order to avoid punishments and gain the benefits of membership. Both the United States and China have largely bought into the system<sup>124</sup> and its importance in resolving conflict between these two economically entangled powers will only grow.

Feldman builds on the conflict-management capabilities of the WTO to also advocate its use by the United States as a tool to compete with China. He begins by noting that “[s]o long as China continues to violate human rights, there may be no better ideological tool for the United States to gain advantage.”<sup>125</sup> The United States

115. *Id.* at 128-29.

116. *Id.* at 119.

117. There are many who disagree with Feldman’s provocative contention that the U.N. Security Council has been irrelevant in recent times. See DAVID BOSCO, *FIVE TO RULE THEM ALL: THE UN SECURITY COUNCIL AND THE MAKING OF THE MODERN WORLD* 4 (2009); Jessica Rettig, *Why the U.N. Security Council is Still Important*, U.S. NEWS & WORLD REPORT (Oct. 9, 2009, 12:40 PM), <http://www.usnews.com/opinion/articles/2009/10/09/why-the-un-security-council-is-still-important>; Martin Sieff, *Why the UN Security Council Still Matters*, GLOBALIST (Sep. 25, 2013), <http://www.theglobalist.com/un-security-council-still-matters/>.

118. FELDMAN, *supra* note 1, at 121.

119. See *Factbox: U.N. Security Council Action on the Syrian Conflict*, REUTERS (Feb. 22, 2014, 11:59 AM), <http://www.reuters.com/article/2014/02/22/us-syria-crisis-un-resolutions-idUSBREA1L0RU20140222> (presenting the extensive deliberations and actions of the U.N. Security Council in response to the Syrian Civil War).

120. *Security Council—Veto List*, *supra* note 46. See also CNN Staff, *Russia, China Block Syria From Facing International Criminal Court*, CNN (May 23, 2014, 8:10 AM), <http://www.cnn.com/2014/05/22/world/syria-un/> (“Throughout the conflict in Syria, Russia and China—both permanent council members—have repeatedly used their veto power to block resolutions tough on the Syrian regime.”).

121. FELDMAN, *supra* note 1, at 121.

122. *Id.* at 122.

123. *Id.* at 122-23.

124. *Id.* at 123-24.

125. *Id.* at 149.

“has *always* used the ideology of human rights as a political tool, deployed when convenient and ignored otherwise.”<sup>126</sup> The key, however, is linking human rights to economic interests.<sup>127</sup> The WTO, Feldman contends, could be the mechanism for this.<sup>128</sup> The strategy would involve the United States and other western states bringing “trade-linked human rights claims before WTO tribunals.”<sup>129</sup> An example Feldman presents is claiming that slave labor or inhuman labor conditions or wages act as an unfair subsidy for a state’s products.<sup>130</sup> Ultimately, the success of such an endeavor depends on whether China simply leaves the WTO in response or chooses to stay and fight the challenges within the legal framework.<sup>131</sup>

The argument for using the WTO as a forum for human rights has been made before,<sup>132</sup> and it remains unconvincing as put forth in *Cool War*. While Feldman’s strategic reasoning appears quite novel, it suffers from potential, and severe, risks. There is a strong case to be made that the WTO functions so well *because* contentious issues like human rights are not considered under its purview. Member states know that their internal affairs will largely remain off the table and only issues concerning international trade will be addressed. The WTO is therefore considered an apolitical entity.<sup>133</sup> Introducing such a highly politicized issue as human rights risks degrading the entire system. The WTO may become seen as simply another soapbox from which to engage in the same political grandstanding and standoffs as so many other less effective international institutions. By bringing human rights to the table, the United States and the West risk severely hampering, or outright demolishing, an institution that offers them incredible benefit without achieving anything. In this sense, Feldman’s recommendation for the United States could bring about more collateral damage than advantage.

Discussion of international trade does, however, lead to what may be the book’s most prescient subsection: Corporate Cool War.<sup>134</sup> Given the degree of economic entanglement between the United States and China, businesses native to both sides will find themselves drawn into the great power competition. Yet many of the largest and most powerful Chinese companies are state-owned and therefore have incredible advantages in terms of political and financial backing.<sup>135</sup> This is doubly

126. *Id.* at 153.

127. *Id.* at 159.

128. *Id.* at 159-61.

129. *Id.* at 161.

130. *Id.* at 159.

131. *Id.* at 160.

132. See, e.g., SARAH JOSEPH, *BLAME IT ON THE WTO?: A HUMAN RIGHTS CRITIQUE* (2013).

133. Many may assert that this is incorrect since large and wealthy nations are the main arbiters of WTO law and policy and the ones who engage with it most often. But for the purposes of democracies versus autocracies and human rights, this statement likely represents the views of most states.

134. FELDMAN, *supra* note 1, at 131-46.

135. See USHA C.V. HALEY & GEORGE T. HALEY, *SUBSIDIES TO CHINESE INDUSTRY: STATE CAPITALISM, BUSINESS STRATEGY, AND TRADE POLICY* (2013) (examining the extent of Chinese state subsidies and strategies for state-owned enterprises and the substantial advantage they provide). See also Doug Palmer, *Rise of China State-Owned Firms Rattles U.S. Companies*, REUTERS (Aug. 17, 2011, 12:09 PM), <http://www.reuters.com/article/2011/08/17/us-usa-china-bigcompanies->

true when the arena of competition is the Chinese market. Feldman notes that “[i]t is one thing to compete with another private firm. It is quite another to compete with a firm that is deeply influenced by the forces that run the country where the market is located.”<sup>136</sup> China’s targeting of foreign corporations with cyber attacks shows that this disadvantage goes beyond mere business competition.<sup>137</sup> “Any firm that finds itself on the opposite side of a serious Chinese competitor can now expect to be subject to governmentally sanctioned warfare.”<sup>138</sup> Put simply, U.S. companies “will not be allowed to defeat their Chinese competitors.”<sup>139</sup> This also leads to the situation in which Chinese companies are able to take over U.S. and western counterparts but the latter cannot do the same in return, and any “[b]ig acquisitions are, in the cool war context, moves in a grand strategic game.”<sup>140</sup> This situation leads Feldman to push for more U.S. government involvement with U.S. companies in terms of support and defense since, “[i]n cool war China, economic competition cannot be separated from political power.”<sup>141</sup> The Corporate Cool War is something wholly novel with no counterpart from the Cold War. It will likely only escalate as the U.S. government becomes more drawn in through China’s aggressive support of its firms, their expansion, and requests from U.S. companies.

The Corporate Cool War and Feldman’s other positions on where U.S.-China global competition will primarily take place are quite thought provoking, but one cannot help but notice glaring absences, particularly with regard to areas of competition that are much more likely to escalate. Some of these include the mounting revelations of cyber conflict between the two states and China’s contentious territorial standoffs with U.S. allies.

Both the United States and China have powerful hacking units directed against one another that carry out an incredible number of cyber incursions.<sup>142</sup> Initially, this sort of conduct was hidden and handled behind the scenes.<sup>143</sup> In recent years,

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idUSTRE77G3Z320110817 (“Lower taxes, less regulation, protected home markets or privileged access to domestic government procurement markets artificially improve the [state-owned enterprises’] ‘economies of scale, lowers their operating costs and increases their sales, enabling them to invest in new technology that increase their competitive advantage at home and abroad.”).

136. FELDMAN, *supra* note 1, at 134.

137. See Spencer Ackerman & Jonathan Kaiman, *Chinese Military Officials Charged with Stealing US Data as Tensions Escalate*, GUARDIAN (May 20, 2014, 3:58 PM), <http://www.theguardian.com/technology/2014/may/19/us-chinese-military-officials-cyber-espionage> (“The US Justice Department indicted five Chinese military officers with stealing data from six US companies.”).

138. FELDMAN, *supra* note 1, at 137.

139. *Id.* at 139.

140. *Id.* at 144.

141. *Id.* at 140.

142. Matthew M. Aid, *Inside the NSA’s Ultra-Secret China Hacking Group*, FOREIGN POLICY (June 2013), [http://www.foreignpolicy.com/articles/2013/06/10/inside\\_the\\_nsa\\_s\\_ultra\\_secret\\_china\\_hacking\\_group](http://www.foreignpolicy.com/articles/2013/06/10/inside_the_nsa_s_ultra_secret_china_hacking_group); David E. Sanger et al., *Chinese Army Unit is Seen as Tied to Hacking Against U.S.*, N.Y. TIMES (Feb. 18, 2013), [http://www.nytimes.com/2013/02/19/technology/chinas-army-is-seen-as-tied-to-hacking-against-us.html?\\_r=2&](http://www.nytimes.com/2013/02/19/technology/chinas-army-is-seen-as-tied-to-hacking-against-us.html?_r=2&).

143. See David E. Sanger, *U.S. Blames China’s Military Directly for Cyberattacks*, N.Y. TIMES (May

however, the two sides have openly accused one another of carrying out cyber attacks.<sup>144</sup> The United States has now officially indicted five named members of the Chinese People's Liberation Army in connection with cyber attacks. Escalating responses in this arena are worrying because the international legal and general precedent for handling cyber attacks is non-existent. Can such actions justify armed responses? If so, what degree of cyber attack is necessary? What other options are open to an attacked state? With two actors as powerful as the United States and China testing these waters, there is much to be concerned about under Cool War conditions.

China's territorial claims against those of U.S. allies in East and Southeast Asia are another area that should raise concern given the developing Cool War. China claims islands in the East China Sea against Japan's assertions.<sup>145</sup> China makes similar claims in the South China Sea against those of, among others, the Philippines.<sup>146</sup> The United States is obligated through treaties to protect both of these states, and has publicly announced its intent to do so should China go too far.<sup>147</sup> With increasingly physical interactions between the disputing states,<sup>148</sup> these situations are most definitely an area where U.S.-China relations will be tested.

The fact that the cyber and territorial disputes contaminating cross-Pacific politics went unmentioned by Feldman show that he is less concerned with providing an overview of the arenas of global competition between the United States and China than recommending nonviolent tactics for each side to carry out. These tactics, however, appear purely instigative since the collecting of allies, increased political use of international institutions, politicization of the WTO, and intensification of the Corporate Cool War are highly unlikely to help reduce tensions. These are very

6 2013), [http://www.nytimes.com/2013/05/07/world/asia/us-accuses-chinas-military-in-cyberattacks.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2013/05/07/world/asia/us-accuses-chinas-military-in-cyberattacks.html?pagewanted=all&_r=0) ("Until now the administration avoided directly accusing both the Chinese government and the People's Liberation Army of using cyberweapons against the United States in a deliberate, government-developed strategy.").

144. See *id.* (reporting on the U.S.'s open accusation against China of conducting cyberattacks against it); Jacob Davidson, *China Accuses U.S. of Hypocrisy on Cyberattacks*, TIME (July 1, 2013), <http://world.time.com/2013/07/01/china-accuses-u-s-of-hypocrisy-on-cyberattacks/> ("China's top Internet security official stated that China possessed 'mountains of data' on American cyberattacks against the People's Republic.").

145. Joseph Nye & Kevin Rudd, *How to Navigate the East China Sea Dispute Between Japan and China*, WASH. POST (Apr. 18, 2014), [http://www.washingtonpost.com/opinions/how-to-navigate-the-east-china-sea-dispute-between-japan-and-china/2014/04/18/953731a8-c67b-11e3-9f37-7ce307c56815\\_story.html](http://www.washingtonpost.com/opinions/how-to-navigate-the-east-china-sea-dispute-between-japan-and-china/2014/04/18/953731a8-c67b-11e3-9f37-7ce307c56815_story.html).

146. Jane Perlez, *Philippines and China in Dispute Over Reef*, N.Y. TIMES (March 31, 2014), <http://www.nytimes.com/2014/04/01/world/asia/beijing-and-manila-in-dispute-over-reef.html>.

147. Mark Landler, *On a Trip That Avoids Beijing, Obama Keeps His Eye on China*, N.Y. TIMES (Apr. 26, 2014), <http://www.nytimes.com/2014/04/27/world/asia/on-a-trip-that-avoids-beijing-obamas-eye-remains-on-china.html>; Cris Larano, *Obama Vows 'Ironclad' U.S. Defense of Philippines*, WALL ST. J., (April 29, 2014, 10:11 AM), <http://online.wsj.com/news/articles/SB10001424052702304163604579531562397334946>.

148. *Japan Reports Latest Incursion by Chinese Ships Around Senkakus*, JAPAN TIMES (May 31, 2014), [http://www.japantimes.co.jp/news/2014/05/31/national/japan-reports-latest-incursion-by-chinese-ships-around-senkakus/#.U4\\_fki-T6u4](http://www.japantimes.co.jp/news/2014/05/31/national/japan-reports-latest-incursion-by-chinese-ships-around-senkakus/#.U4_fki-T6u4); FELDMAN, *supra* note 1, at 31-32.

public and alienating actions where each side will have no choice but to stand against the other in order to save face and protect core interests. Feldman makes an interesting case for why the Cool War is here, and if his prescriptions are followed, it will escalate faster.

#### V. CONCLUSION

In Aldous Huxley's 1962 novel, *Island*, the protagonist, Will Farnaby, refers to the Cold War as "Cold War I."<sup>149</sup> *Cool War* would have this statement come true as Feldman grafts a Cold War dynamic on modern day international relations and advances antagonistic courses of action for both the United States and China. While there exist incentives for cooperation alongside those for competition, Feldman's analysis relegates these to obstacles that the two states must steer around in going after one another. For those who already hold this zero sum view and see the need to immediately engage in Cool War combat through such tactics as a race for allies and corporate war, this book is likely affirmative and perhaps builds on one's parameters for analyzing the world. But for those who do not yet hold such a prediction for the course of world politics, or who still see a place for basic dialogue and diplomacy, this work is likely unconvincing. *Cool War* is still an interesting read containing a unique and pragmatic, if somewhat disjointed, blend of general political theory and U.S.-China analysis. But its impact on the debates and scholarship revolving around the coming era of international politics and U.S.-China relations will likely be limited.

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149. ALDOUS HUXLEY, *ISLAND* 114 (1962).







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