The Paradoxical Leverage between Sovereign Wealth Funds-Based Investments and Human Rights: The Geopolitical Effect on Universal Values*

Abstract

Sovereign wealth funds (SWFs) have been rapidly redefining the traditional paradigms, providing both much-need capitals as well as posing particular challenges for policy makers. The role of SWFs, which are becoming increasingly involved in the global financial markets, has often been underestimated in the discourse of the protection of human rights. The tâtonnement processes of bargaining between home and host countries of SWFs indicate that the concern regarding human rights has maintained a sensible balance between protecting the rights of individuals and the benefits that large capital investments offer for both host and home countries. The challenge still remains as to whether the presumption would be rebutted that the promotion of SWFs investment is going to retard the promotion of human rights.

Key Words: China, Sovereign Wealth Funds, Europe, Human Rights

Introduction

As China becomes a global player and a fierce competitor in European markets, its political system and state capitalist ideology may pose a threat.¹ Sovereign wealth funds (SWFs) are state-owned pools of assets designed to engage primarily in foreign portfolio investment in order to recycle the host state’s forex reserves surplus. They are predicted to surpass the entire economic output of the United States by 2015, reaching a total value of more than $12 trillion.² As long as global macroeconomic imbalances continue to persist, SWFs are projected to grow at an accelerated rate in the near future. The rapid expansion in the size of SWFs represents one of the most consequential international economic developments with particular regard to their plausible implications on the protection of human rights.³ Arguably, the beginning of the 21st century witnessed the centre of the global economy shifting away from countries which share the fundamental values of human rights and rule of law.⁴ The rise of SWFs may provoke an irrational reaction to the development of what has been called a "non-polar" world order, in respect of SWF’s potential cumulative effect on the stability of global

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¹ Heriberto Araújo and Juan Pablo, ‘China’s Economic Empire’ *The New York Times* (1 July 2013)
markets. The shift to a new multi-polar architecture of the global financial powerhouse has significant political consequences; particularly in the transition of the recovery from the financial crisis.\(^5\)

The emergence of China’s SWFs represents such a shift in the global balance of power, but the line between political and financial clout is always blurred.\(^6\) China is diversifying the SWFs-related investment and steering away from the previous risk-averse approaches. The SWFs have come to be perceived as the new giants of the international monetary and financial system, which are arguably not a definable class of either political or financial actors. This surge brings about challenges and opportunities for EU countries, but with novel threats as well.\(^7\) As a global financial market investor, SWFs raise complex issues that transcend traditional boundaries between foreign policy and financial markets. These changes in the global economy have also caused a shift in the human rights discourse, which has been substantially influencing the relations between the EU and China. In the context of globalisation, the SWFs have more than one dimension which China could exploit as part of its grand strategy to levelling the West’s criticism of its human rights.\(^8\) More challengingly, the rhetoric masks a subtle but significant shift in China’s own use of economic sanctions.\(^9\) This could give China leverage over what the host countries’ decisions towards the *status quo* of the Chinese human rights. Such a relationship has not been sufficiently studied in the case of SWFs.

The outline of the paper is as the following: Part I looks into a paradoxical argument enshrined in China’s economic growth and the growing role of SWFs in global capital markets. Pros and cons are discussed based on certain perceived geopolitical consequences. Part II considers the traditional cornerstone of the EU and its implication on the discourse of human rights. A long-standing argument is critically analysed in respect of the state sovereignty *vis-à-vis* the human rights intervention. Part III breaks new ground by looking at the behaviour of policy-makers at the intersection of SWFs and human rights, and how human rights issues are seeping into the SWFs. This part then examines whether the SWFs-based investment is independent from political regimes, and whether China has been using its SWFs to exert financial leverage to achieve political ends. Cases are studied to describe dilemmas and paramount challenges that the EU member states face. It continues to ascertain whether the issue of human rights are always secondary when hard decisions about SWFs are to be made, in particular, under the circumstances where the “divide and conquer” policy is exploited. Part IV

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\(^6\) Christina Madden, ‘Sovereign Wealth Funds under Scrutiny’ *Policy Innovations* (21 May 2008)

\(^7\) Daniel Deudney, James Goldgeier, et al., *Global Shift: How the West Should Respond to the Rise of China.* (Washington, DC, Transatlantic Academy, 2011)


explores a framework in which the politically-inspired investment decisions can be mitigated given the lack of transnational legal venue. Among other innovative initiatives, the UN’s Tri-pillar principles are examined with a particular regard to a state’s core duty to protect human rights. This part also explores how the EU coordinates SWFs and human rights objectives and resolves conflicts; it provides innovative proposals to help stakeholders to make their decisions more cogent, so that policy makers can pursue policies that achieve goals for both healthy SWFs investment and human rights. A tentative conclusion is given in the end of this study.

A. The Anatomy of China’s SWFs: The Pros and Cons

China’s economy has grown at rates of around 10% for the past three decades, despite the absence of a robust legal system. The rapid economic growth has afforded it an economic powerhouse in the global system. As the world’s second largest economy and a major creditor nation, China has impressive intrinsic economic capabilities. Its large foreign reserves are primarily made up of commodity export revenues. At an unprecedented pace, China has accumulated the largest foreign exchange reserves, which are estimated at around $3.4 trillion, resulting primarily from trade surpluses generated by its export-driven economy. The Chinese government has created its own SWF, i.e. the China Investment Corporation (CIC) in 2007, which is emblematic of the new status of China in the global economy. As a semi-independent entity, it reports directly to the State Council, the Chinese highest administrative organ. In this regard, it is vital to guard against the uncertainties arising from the reshaping of the emerging governance landscape of multipolar global finance.

1. Relieve the Global Financial Tension

Most SWFs do not seem to act for political purposes, but maximise profit and play a positive role in alleviating global tensions. They contribute stabilising the global financial system and underpin confidence as a whole through offering a fresh source of investment and market liquidity. As Gilson and Milhaupt observed, SWFs have softened the effects of the subprime mortgage crisis, lowering the cost of equity and reducing long-term U.S. interest rates. They have drawn significant attention largely because their home state has been investing in ways that are geopolitically expedient as well

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11 Simon Rabinovitch, ‘China’s Forex Reserves Reach $3.4tn’ Financial Times (11 April 2013)
13 Gordon Clark, Adam Dixon and Ashby Monk, Sovereign Wealth Funds: Legitimacy, Governance, and Global Power (Princeton University Press, 2013) 105-120
as economically remunerative.\textsuperscript{15} One school of thought holds that the spectre of China’s SWFs may have been exaggerated. The SWFs are crucial to balance the global economy, infuse liquidity and help provide stability to the international financial market. They are able to lengthen their investment horizons.\textsuperscript{16} In particular, the sovereign wealth injection into the financial industry has alleviated many of the banks' liquidity problems during the height of the financial crisis.\textsuperscript{17} The EU does not exert a significant impact on the human rights situations in China, the lack of progress in this regard prevents the EU to deepen the strategic relations with China.\textsuperscript{18} Nevertheless, SWFs investments give the EU a stake in the sustained prosperity and lower the cost of equity for companies, which is also conducive to reduce long-term interest rates.\textsuperscript{19} They have thus far been a positive influence to the global economies and helped to reduce the large current account deficit. It is unlikely that SWFs would exercise any significant constraint on Western foreign policy. Epstein and Rose arguably observed that SWFs have not sought to leverage their position to pursue political ends.\textsuperscript{20} There is little evidence that SWFs have been used significantly for strategic investments. Ghahramani even optimistically held that: “investments by sovereign wealth funds may, in fact, have created an unprecedented level of global financial interdependence that could even enhance political stability.”\textsuperscript{21} In contrast to the observations, some concerns arise in that SWF motives can be strategic rather than purely financial.

2. The SWFs’ Geopolitical Consequences

Chinese SWFs may come with implicit strings attached and could potentially act as a Trojan Horse affecting European human rights norms.\textsuperscript{22} The SWFs’ dramatic growth may potentially lead to inevitable foreign policy consequences and may significantly impair the West’s human rights protection efforts. Concerns have been raised over the extent to which SWFs exert financial leverage for political ends. It can do this because of its huge SWFs, which were estimated at about $1.3037

\hspace{1cm} \textsuperscript{15} Barry Eichengreen, ‘Global Shifts’ (April 2011) <http://emlab.berkeley.edu/~eichengr/Global_shifts_5-17-11.pdf>
\textsuperscript{17} Salar Ghahramani, ‘Sovereign Wealth Funds, Transnational Law, and the New Paradigms of International Financial Relations’ (2013) 8 (2) Yale Journal of International Affairs 52, 64 at 58
\textsuperscript{19} Qingxiu Bu, ‘The Sovereign Wealth Funds: Problem or Panacea?’ (2010) 11 (5) Journal of World Investment & Trade 849, 877
\textsuperscript{20} Richard Epstein and Amanda Rose, ‘The Regulation of Sovereign Wealth Funds: The Virtues of Going Slow’ (2009) 76 The University of Chicago Law Review 111, 134
\textsuperscript{21} Salar Ghahramani, ‘Sovereign Wealth Funds, Transnational Law, and the New Paradigms of International Financial Relations’ (2013) 8 (2) Yale Journal of International Affairs 52, 64 at 62
trillion as of March 2014.\textsuperscript{23} In addition, the rise of state capitalism and the growing weight in the global economy of China have even complicated SWFs’ geopolitical implications.\textsuperscript{24} It is high time to review the theorising of the dialectics between global capitalism, geopolitics and the contradictions between the ongoing globalisation tendencies on the one hand, and the growing signs of and the politicisation of SWFs on the other.

China attempts to use its increasingly financial might to exert strategic influence over foreign affairs. As part of its grand strategy, China could exploit its SWFs as a political weapon with its integration into the global economy. They can be used strategically to apply political pressure and manipulate markets. The biggest effect of SWFs is their potential effect on democracy and human rights promotion efforts.\textsuperscript{25} The increasing pressure resulting from the financial crisis renders it possible for China to make strategic decisions to invest in a politically friendly EU member states. The SWFs-based investment could be motivated by politics rather than investment goals, due particularly to its close ties to the Chinese government.\textsuperscript{26} Under certain circumstances, SWFs are even a “threat to the sovereignty of the nations in whose corporations they invest”.\textsuperscript{27}

Previously, China relied heavily on market access, technology transfer and capital from the West to accelerate its economic development.\textsuperscript{28} In principle, China should still need the EU to keep its jurisdiction open to capital inflows, whose markets remain deep and liquid enough to absorb inflows in the trillions of dollars.\textsuperscript{29} Globalisation appears to have changed the conventional dynamic. China’s rapid accumulation in SWFs has begun to challenge Western dominance of global capital flows.\textsuperscript{30} It seems that the EU member states have been de-prioritising human rights in the Sino-EU relation due to the increasing pressure following the global financial crisis.\textsuperscript{31} China no longer finds human rights compliance as incentive to do business with developed countries or as a requirement to find trading

partners. With its growing influence, China has started to use SWFs as an investment vehicle to dominate market activity, so as to leverage its responsibility to protect human rights. Thus, it has a direct stake in the continuing prosperity of the West and may impair the European human rights efforts.

B. The Cornerstone of the EU and the Human Rights Intervention

The EU has been exporting democracy and human rights, representing a cornerstone of many European countries’ foreign policy. It is perceived to support China’s transition to an open society based upon the above universal values. It is argued that the economic development which Western-style legal changes have facilitated will increase demand for Western-influenced legal change in such political areas, and expose China to the functioning of a modern market economy. It is thus perceived that the economic integration and wealth are more likely to move China towards better protection of human rights. This presumption does not hold true because China’s SWFs belies the notion that as China grows richer it will become more democratic with more protection of human rights. On the contrary, worries increasingly level up about Chinese SWFs, which carry particular concerns due to China’s poor track record with human rights. Although the Chinese market reforms may not guarantee greater respect for human rights, the huge economic success does pose pressure on the Chinese government to implement political reform for democracy.

1. The Cornerstone of the EU in Human Rights

38 Yingyi Qian and Jinglian Wu, ‘Transition to a Market Economy: How Far Across the River?’ in Nicholas Hope, Dennis Tao Yang and Mu Yang Li (eds.) How Far Across the River?: Chinese Policy Reform at the Millennium (Stanford University Press, 2003) 31-63
China has indeed made certain progress towards the protection of human rights. There is, however, still a significant gap between the current human rights situation in China and internationally accepted standards. It results largely from a perception that the rights to state sovereignty prevail over individual human rights. Human rights are generally considered as subordinate to the Chinese Communist Party (CCP)’s authority and to the policy goals of maintaining social stability. Although the economic growth and emerging middle class create pressures for the protection of human rights as well as improvement of democracy, those interested parties within the CCP refer incremental to dramatic changes. Given the shared basis of values and norms among the EU state members, the EU has an increased moral responsibility to enhance its policy on promoting human rights, in particular, in China. The European societies are deeply permeated by the value of human rights even if the governments are willing to take a more pragmatic approach to ensure their material interest. Giving up on the commitment to human rights or being compliant in the face of rapacious state capitalism would hurt the EU in the long term. In the sense that politics and economics cannot be divorced, SWFs are integral parts of a component of a state-led development approach. It is unrealistic to be free from such political and social demands that piggyback on investment negotiations and advance unilaterally-defined objectives, reflecting domestic criteria. For instance, the Norwegian SWFs refuse to invest in countries which do not satisfy its own social responsibility criteria. Even free trade and investment is likely to advance human rights, through which the EU can transmit the well-recognised value via businesses. Notably, a free-market approach to human rights policy does not mean that the EU should be indifferent to human rights abuses in China and disconnect the trading relationship from fundamental values. It may be strategically significant to promote better political relations through stronger economic ties, so as to advance the EU’s political and social objectives.

46 Heriberto Araújo and Juan Pablo Cardenal, ‘China’s Economic Empire’ The New York Times (1 June 2013)
2. State’s Core Duty vis-à-vis State Sovereignty

A human rights dialogue is usually the most sensitive issue in China and cannot be debated yet in broader forums.\(^{51}\) China has long held that ‘universal’ human rights are goals to be attained on the path to development rather than binding legal obligation. Collective socio-economic or ‘survival’ rights are firmly prioritised over individual civil and political rights.\(^{52}\) The Chinese government has regularly spoken out against external intervention on human rights grounds in its sovereignty.\(^{53}\) It denounces foreign criticisms of its human rights policies as interference in China’s internal affairs, and asserts that perspectives on human rights vary according to a country’s level of economic development and social system.\(^{54}\) Such an approach may contradict the state’s duty to protect human rights.

The State has an intrinsic duty to protect citizens from human rights violations.\(^{55}\) It should ensure policy coherence by considering human rights across all relevant governmental agencies,\(^{56}\) promoting human rights through multilateral institutions dealing with business-related issues,\(^{57}\) and maintaining “domestic policy space” to fulfil human rights obligations when pursuing economic objectives such as investment treaties.\(^{58}\) The emergence of the international human rights regime has shifted previous fundamental understandings regarding state sovereignty,\(^{59}\) which is itself now conditioned on a state’s ability and will to protect the human rights of its citizens.\(^{60}\) The human rights regime should seek to protect individuals from violations of their rights, regardless of whether those rights have been violated by agents of the state or by private actors.\(^{61}\) When a state fails to protect its citizens from

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^{54}\) The PRC State Council, ‘Progress in China’s Human Rights in 2009’ Xinhua (26 September 2010)  
^{56}\) Principle 8  
^{57}\) Principle 10  
^{58}\) Principle 9  
violations of human rights, the state itself has been held to have breached its duty to protect human rights.\footnote{Patrick Keenan, and Christiana Ochoa, ‘The Human Rights Potential of Sovereign Wealth Funds’ (2009) 40 Georgetown Journal of International Law 1151, 1179 at 1157}

In reality, not all states have the capacity or the will to protect human rights and may make very little real effort to fulfil this duty, which holds particularly true in an authoritarian state.\footnote{David Miller, ‘The Responsibility to Protect Human Rights’ in Lukas Meyer (ed.) Legitimacy, Justice and Public International Law (Cambridge, Cambridge University Press, 2009) 232-251} A strong reliance on the state’s duties will not function effectively in China where there has been no sound record for the protection of human rights.\footnote{Julie Liu, ‘Lighting the Torch of Human Rights: The Olympic Games as a Vehicle for Human Rights Reform’ (2007) 5 (2) Northwestern Journal of International Human Rights 213, 235} When it is unable or unwilling to do so, the international community or other states may share in fulfilling the duty to protect human rights, which are violated in connection with business and financial activity. Nevertheless, there has been less recognition of this duty to share in the protection of human rights in the SWFs’ geopolitical arena and its implications.\footnote{Eric Helleiner, ‘The Geopolitics of Sovereign Wealth Funds: An Introduction’ (2009) 14 (2) Geopolitics 300, 304} China invokes the principles of state sovereignty as a defence against foreign incursions.\footnote{Walter Clemens, Jr, ‘China, North Korea and the Responsibility to Protect the UN Human Rights Council’s Commission of Inquiry’ Global Asia (27 March 2014); Patrick Keenan and Christiana Ochoa, ‘The Human Rights Potential of Sovereign Wealth Funds’ (2009) 40 Georgetown Journal of International Law 1151, 1179 at 1158} Given the arguable direct intervention, a relatively realistic resolution could resort to a strengthening of the system of international law.\footnote{Sonya Sceats and Shaun Breslin, ‘China and the International Human Rights System’ (Chatham House, The Royal Institute of International Affairs October, 2012) <http://www.chathamhouse.org/sites/default/files/public/Research/International%20Law/r1012_sceatsbreslin.pdf> } A subsequent problem remains: how to make international law effective in the absence of a powerful enforcing avenue.\footnote{Salar Ghahramani, ‘Sovereign Wealth Funds, Transnational Law, and the New Paradigms of International Financial Relations’ (2013) 8 (2) Yale Journal of International Affairs 52, 64} 68

3. A Dilemma between Two Approaches

China’s diplomatic dealings with the EU have been largely dependent on its powerful SWFs, which provides China with political leverage.\footnote{Jana von Stein, ‘International Law: Understanding Compliance and Enforcement’ in Robert Denemark (ed.), International Studies Compendium (Oxford: Wiley-Blackwell, 2010)} It is good at using economic interests to meld the EU’s China policy, which faces hard decisions while seeking to gain more SWFs investments.\footnote{Sophie Meunier, ‘Political Impact of Chinese Foreign Direct Investment in the European Union on Transatlantic Relations’ (Brussels, European Parliament, 2012) <http://scholar.princeton.edu/smeunier/files/meunier_final.pdf> } 69 For instance,
Klaus Regling, head of the European Financial Stability Facility (EFSF), went to Beijing as soon as the European rescue package was put together, seeking for Chinese investment in the fund. Since the SWFs have been used to influence political and economic objectives, it presumes that China knows how to strategically use its SWFs for maximising leverage with regards to human rights. Criticizing China’s human rights violations might result in reduced access to the investment opportunities and the impediment of the recovery in an era of global economic uncertainty.

A serious concern arises as to how willing the EU members would be to stand up to China in the human rights issue. Notably, the emphasis on human rights has been in decline. It is alleged that trade policies have been undermining some fundamental values. Even if the conditionality is implicit, the competition between EU member states to host Chinese SWFs could lead to a reversal of policy positions concerning the issue of human rights, and result in a regulatory race to the bottom. From pervasive state ownership of key strategic enterprises to portfolio investment by its SWFs, China's dramatic growth under weak formal legal institutions has been posing a serious challenge to the conventional sustainability and justice. It is therefore essential that Western governments stick to the rule of law i.e. the core of Western prosperity. In this sense, it remains uncertain about the extent to which the Chinese SWF investments impact the Western’s core values of human rights, and whether SWFs have the effect of having economic policy which in effect trump the legitimate concern about human rights abuses.

C. Paradoxical Leverage between SWFs and Human Rights

China’s fiscal capacity, foreign exchange reserves and SWFs are a tremendous source of leverage in global money governance. The current financial crisis has intensified the Western reliance on China’s

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72 Sophie Meunier, ‘China as Saviour or Predator in Europe?’ The Huffington Post (11 March 2011)
73 Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Nicholas Kitchen (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) <http://eprints.lse.ac.uk/46823/>
When the Chinese SWFs own shares in western financial institutions, their economies have intertwined within western financial framework. Interdependence created by SWFs is significantly at stake for both host and home countries where finance and human rights are increasingly intertwined. Human rights are inevitably being woven into the tightly intermeshed Sino-EU relationships. Despite the increased economic interdependence, it does not necessarily shorten the ideological gap in respect of the protection of human rights. On the contrary, human rights issues might be deferred or slowed until the economic issues have been set, depicting economic issues as the higher priority. SWFs, together with the Chinese SOEs’ integrated outbound activities, can serve as instruments of state policy effectuated through private, markets-reaping both economic profit and state political objectives. Though private in form, the SWFs may interact with public policy differently from what private funds normally do. Beyond simply seeking demand or higher financial return, SWFs investment has potentially translated into Sino-EU policy change. Arguably, whatever the abuses of human rights, the injection of China’s SWF-relate investment may have virtually trumped all other considerations. This is largely due to the fact that China has increasingly resorted to unilateral sanctions through the exploiting of SWFs in response to the EU’s criticism of its human rights record.

1. The Policy of “Carrot and Stick”

China has long used financial incentives in an attempt to swing the EU policies. During the euro crisis, China knows how to employ the EU’s multi-level governance to its advantage based on the

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80 Mary Dowell-Jones and David Kinley, ‘Minding the Gap: Global Finance and Human Rights’ (2011) 25 (2) Ethics & International Affairs 183, 210
84 Larry Catá Backer, ‘Sovereign Investing in Times of Crisis: Global Regulation of Sovereign Wealth Funds, State Owned Enterprises and the Chinese Experience’ (2010) 19 (1) Transnational Law & Contemporary Problems 3, 144
inconsistencies between member states within the EU. Despite the common fundamental values, European countries have their own different interests over many other issues. In this respect, there is a need for coordination and solidarity within the EU given the lack of institutional integrity.

(a) Access to China’s Lucrative Markets and the Key Stake of China’s SWFs

China’s regular use of SWFs to advance its strategic interests reflects on some geopolitical implications. On the one hand, it has been increasing the use of unilateral economic sanctions to achieve its foreign policy objectives. On the other hand, the EU is courting China to provide more investment with its SWFs to help stabilise the euro on the global market. China is always drawing a line at whether or not a nation criticizes its human rights record. It has repeated politicised economic relations, refusing the SWFs-based investment opportunities in support of its ideological objectives. As a result, the strategy of financial pressure assumes that threatening loss of capital injections opportunities will compel many powerful European foreign multinational companies (MNCs) to lobby their home governments in a pro-China fashion. It is obvious that China has deployed its vast SWFs as a tool to mix economic rewards and punishments to eviscerate criticism of China’s human rights policies.

(b) The Divide and Conquer: The “Carrot and Stick” Policy

China has become adept at exploiting European division to its advantage. It mainly uses either economic sticks or economic incentives to “punish” or “reward” an individual European member state, although it is yet to clarify what is a “normal” bureaucratic hold-up and what is a deliberate decision

90 Gordon Clark, Adam Dixon and Ashby Monk, Sovereign Wealth Funds: Legitimacy, Governance, and Global Power (Princeton University Press, 2013) 105-120
92 Jian Jisong, ‘Investigation into the Judicial and Legal Aspects of Unilateral Sanctions’ (2007) 1 Legal Studies 87
to delay.\textsuperscript{98} Accordingly, the EU member states’ China policies vacillate over choice between economic interests and human rights issues.\textsuperscript{99} As a result, most EU countries have adopted a policy of appeasement on human rights issues.\textsuperscript{100} As Meunier observed:

“the EU member states have been reacting to this surge with competition and cacophony, each one scrambling to attract this investment to its own territory and negotiating its own terms with China.”\textsuperscript{101}

The geographical distribution of Chinese SWFs in the EU seems very diverse, but the three primary locations are based in France, Germany and the UK.\textsuperscript{102} China can afford to simply turn away from any major EU powers and form economic alliances with the states that are silent with its human rights record.\textsuperscript{103} With threats of unilateral economic sanction to counter criticism of its human rights policy, China employs a strategy that resembles that of “divide and conquer.”\textsuperscript{104} This is the tactic of trying to opportunistically exploit temporary divisions among the core group of powerful states.\textsuperscript{105}

While it is unlikely that UK features centrally in China’s grand strategy in global affairs, China’s growing influence nonetheless impacts Sino-UK relations significantly.\textsuperscript{106} The UK took a more critical position on China’s human rights record, which had considerably harmed the two countries’ relationship. A recent approach does not press China to improve the protection of human rights, but helps to attract huge SWFs-based financial investment opportunities. Such a U-turn policy has not served its trading relationships from the British national values. For instance, CIC took a 10% stake in London’s Heathrow Airport in 2012, as well as a nearly 9% stake in the British utility company Thames Water.\textsuperscript{107} The “carrot and stick” policy has clearly undermined the UK's human rights diplomacy as a whole by showing that there are double standards. There are some countries in which

\begin{thebibliography}{9}
\bibitem{99} Qinglian He, “‘Soft Power’ with Chinese Characteristics Is Changing the World” (19 December 2009) <http://www.hrichina.org/en/content/3175>
\bibitem{100} Qinglian He, “‘Soft Power’ with Chinese Characteristics Is Changing the World” (19 December 2009) <http://www.hrichina.org/en/content/3175>
\bibitem{101} Sophie Meunier, ‘Divide and Conquer: China and the Cacophony of Foreign Investment Rules in the EU’ (2014) 21 (7) Journal of European Public Policy 996, 1016
\bibitem{102} Sophie Meunier, ‘Beggars can’t be Choosers’: The European Crisis and Chinese Direct Investment in the European Union’ (2014) 36 (3) Journal of European Integration 283, 302
\bibitem{103} Salar Ghahramani, ‘Governments, Financial Markets, and International Human Rights: The State’s Role as Shareholder’ (2011) 6 (1) Yale Journal of International Affairs 85, 95
\bibitem{104} Sophie Meunier, ‘Divide and Conquer: China and the Cacophony of Foreign Investment Rules in the EU’ (2014) 21 (7) Journal of European Public Policy 996, 1016
\bibitem{107} Andrew Woodman, ‘CIC Buys Stake in Heathrow Airport Holdings’ Asian Venture Capital Journal (2 November 2012)
\end{thebibliography}
the UK raises human rights and others in which the UK doesn’t do because of its trade interests, such as China.\textsuperscript{108}

The ‘divide and conquer’ policy has applied to Germany and France as well. Policy makers have been increasingly playing a role at the centre of the global financial system. Germany has generally been less outspoken about China’s human rights record than most of its European partners.\textsuperscript{109} However, Angela Merkel expressed concern about China’s human rights situation and raised criticism on a visit to China in 2007. In consequence, she has failed to get a single purchase order from China during her visit. Notably, some observers were critical of Chancellor Merkel’s reluctance to tackle the issue of human rights when she visited China again in August 2012, with a mission to attract the Chinese investment in Germany.\textsuperscript{110} France has a reputation as being the “motherland of human rights,” but has long been guided by economic interests, having abandoned its concern for and critique of the human rights situation in China.\textsuperscript{111} The Chinese government adopted a “carrot and stick” policy by means of either injecting or refusing of SWFs. While Merkel got the cold shoulder, French President Nicolas Sarkozy was in China basking in the “warm winter sun,” garnering the largest £815milllion purchase order in the history of civilian use of nuclear power in the world and selling 160 Airbuses to boot.\textsuperscript{112} Nevertheless, China has suspended bilateral relations as a means of exerting leverage. In 2008, China postponed the EU-China Summit as a reaction to French President Sarkozy’s plan to meet Dalai Lama. Since France had at the time the European presidency, the entire EU was basically taken hostage as a result of the French decision.\textsuperscript{113} With the relationship coming back to normal, CIC recently purchased a 7\% stake in France’s Eutelsat Communications.\textsuperscript{114} These cases reflect the shift in policy based on financial interests rather than ideological convictions or moral principles. China not only makes use of “purchase order diplomacy” to manipulate and modify such unprincipled European foreign policy that is subordinate to economic interests, but also derides the “hypocrisy of human rights diplomacy.”\textsuperscript{115}

\textsuperscript{108} Yang Jiang, ‘Red Trojan Horses? A New Look at Chinese SOEs’ Outward Investment’ (2014) 2 (1) Journal of China and International Relations 1, 25

\textsuperscript{109} Wieland Wagner, ‘The Domesticated Chancellor: Merkel Shies Away from Direct Criticism in China’ Spiegel International (31 August 2012)

\textsuperscript{110} Sophie Meunier, ‘A Faustian Bargain or Just a Good Bargain? Chinese Foreign Direct Investment and Politics in Europe’ (2014) 12 (1) Asia-Europe Journal 143, 158 at 147

\textsuperscript{111} Qinglian He, “‘Soft Power’ with Chinese Characteristics Is Changing the World’ (19 December 2009) <http://www.hrchina.org/en/content/3175>

\textsuperscript{112} Jane Macartney and Robin Pagnamenta, ‘French Seal $12bn Chinese Nuclear Deal’ The Times (27 November 2007)


\textsuperscript{115} Qinglian He, “‘Soft Power’ with Chinese Characteristics Is Changing the World’ (19 December 2009) <http://www.hrchina.org/en/content/3175>
(c) Less Diplomatic but Effective Sanctions

China put pressure on the three EU member states to further the interests of its national policy, which represents a more subtle influence.\textsuperscript{116} It prefers to use subtle threats, variation in SWFs investment opportunities and selective purchases. Such a delicate game minimises diplomatic fallout. It takes advantage of the scheme’s flexibility that can be removed without an embarrassing policy reversal while achieving China’s political and ideological objectives.\textsuperscript{117} The sanctions are enforcement in a relatively less costly and risky way to signal China’s dissatisfaction, while increasing the costs to those governments who take undesired actions.\textsuperscript{118} The sanction conveys a message that more serious repercussion will come unless the country reverse its certain action.\textsuperscript{119} Secondly, this threat is based on a leverage asymmetry. There is little leverage imposed on China in terms of efficient enforcement mechanisms and strong protections against violation of human rights. With the issue unaddressed, it will pose an immense challenge to the future prosperity and stability of both China and the EU.\textsuperscript{120} Policymakers have to balance the various interests and make a judgment on what they think is in the best interest of their country overall. The delicate game also indicates that the EU’s current China policy in human rights is in a shambles, which is seen as inconsistent and self-serving.\textsuperscript{121} There might be some sort of implicit awareness of the extent to which the EU are relying on the Chinese SWFs.\textsuperscript{122} Finally but notably, this is an increase in interdependence, not an increase in asymmetric dependence.\textsuperscript{123} The scale of China’s economy does give it significant economic leverage.\textsuperscript{124} European member states have been logically competing with each other to attract Chinese investment with various incentives.\textsuperscript{125} Given the ongoing financial difficulties, the EU is increasingly lacking the confidence to admonish China on its human rights deficits. Exploiting the lack of coordination, China’s policy of “carrots and stick” seems to have proved more effective in pressing the West to ignore its home human rights issues.\textsuperscript{126} As a result, the ‘divide and conquer’ policy works, leading to

\textsuperscript{116} James Reilly, ‘China’s Unilateral Sanctions’ (2012) 35 (4) The Washington Quarterly 121, 133
\textsuperscript{117} James Reilly, ‘China’s Unilateral Sanctions’ (2012) 35 (4) The Washington Quarterly 123
\textsuperscript{118} James Reilly, ‘China’s Unilateral Sanctions’ (2012) 35 (4) The Washington Quarterly 121, 133 at 123
\textsuperscript{119} James Reilly, ‘China’s Unilateral Sanctions’ (2012) 35 (4) The Washington Quarterly 121, 133 at 123
\textsuperscript{120} Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Nicholas Kitchen (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) 21
\textsuperscript{121} Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Nicholas Kitchen (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) 18
\textsuperscript{122} Jeremy Clegg and Hinrich Voss, ‘Chinese Overseas Direct Investment in the European Union’ (January 2012)
\textsuperscript{123} Thomas Wright, ‘Sifting through Interdependence’ (2013) 36 (4) The Washington Quarterly 7, 23
\textsuperscript{124} Giuseppe Balducci and Jing Men (eds.) Prospects and Challenges for EU-China Relations in the 21st Century: The Partnership and Cooperation Agreement (European Interuniversity Press, 2010) 34
\textsuperscript{125} Sophie Meunier, ‘China as Saviour or Predator in Europe? The Huffington Post (3 November 2011)
\textsuperscript{126} David Allen Baldwin, Economic Statecraft (Princeton University Press, 1985) 41-50
further European fragmentation. The EU is split down the middle on how to deal with the issue, with the major EU powers having given up its public criticism of China’s human rights violations. Generally, the EU member states are taking the lack of elementary rights in China seriously, but are proceeding in a largely uncoordinated manner. With the issue unaddressed, the paradoxical Chinese model may complicate the fundamental value of human rights in those undeveloped countries.

2. A Domino Phenomena: Corrosive Effects on Western Soft Power

Despite the increased observance of human rights being a sine qua non for development and enhanced global influence, the growth of SWFs has somewhat marginal effects on the contour of Western foreign policy. In particular, the Chinese SWF-related investments are perceived as a geopolitical threat largely because they give an added advantage to the authoritarian government as against the Western model. Representing one component of an alternative development path, SWFs suggests a possible rival to liberal free-market democracy. When China’s SWFs seek to play abroad by rules that emanate from an authoritarian regime, there is grave danger that Western countries will, out of economic need, end up playing by Beijing’s rules. The backdrop suggests a diminishing role for the proverbial sticks that have traditionally been used against China. This should by no means be scrutinised without the consideration of the state capitalism backed by the Chinese Communist Party (CCP), which is more capable of riding out downturns that would otherwise have threatened its regime. The CCP is skilled at using markets to create wealth that can be used to maximize its own

129 Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Kitchen, Nicholas (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) <http://eprints.lse.ac.uk/46823/>
135 Didri Kirsten Tatlow, ‘China’s Development A ‘Threat’ to Democracies’ The New York Times (3 June 2013)
chances of political survival. More controversially, China's assistance with undeveloped countries doesn't attach conditions, such as democracy and human rights. By giving loans all over the world, China is pursuing a soft but unstoppable form of economic domination. For instance, China set up the China-Africa Development Fund in 2007 with $5 billion, despite its Linaburg-Maduell Transparency Index being only 4. It is arguable that China is becoming an exporter of legal and law-related ideas. Incrementally, the recipient African countries have been accepting the Chinese-version of ideological values, including human rights.

It is also notable that China has successfully been embracing a dynamic state-governed band of capitalism. This is a form of state capitalism in which the state uses markets primarily for political gain. Such a model has so far proven strikingly competitive. Arguably, China gives state capitalism its global significance, underscoring the importance of the ongoing debate. Behind the autocratic capitalism model, China can use SWFs diplomacy to pursue its international objectives as well as to thwart the international objectives of the West. This is one possible feature of what some call a “Beijing Consensus” that has emerged to rival the “Washington Consensus” model of neoliberal market economics, relatively free trade and the rule of law. The Chinese model runs around to some fundamental thoughts in Western democracy and human rights. Ambitiously, China would reprise its former role as a model for foreigners, at least, in some underdeveloped countries. The belief of China’s would-be imitators that they can also create a dynamic economy without sufficient protection of human rights would worsen the situation, making it more difficult to share the above-mentioned universal value.

141 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
142 Doug Guthrie, ‘The United States, China and Human Rights’ Forbes (5 April 2012)
143 Ian Bremmer, ‘State Capitalism Comes of Age’ (2009) 88 (3) Foreign Affairs 40, 55
147 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
148 ‘What’s Gone Wrong with Democracy’ Economist (1 March 2014)
149 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
prosperous has added to the Chinese model’s appeal. More challengingly, state capitalism seems to be threatening many of the global institutions, which could emerge as a viable challenger to the liberal democratic path. In contrast, most EU members are increasingly using their view of human rights concepts as a yardstick in those undeveloped countries to deal with financial assistance, where the SWFs are mostly likely to attach political conditionality into their capital markets. Given China’s disregard for conditionality and its general reluctance to mandate intervention, even in case of grave human rights violations, a legitimate concern arises that China has been undermining Europe’s efforts to promote liberal standards in African business and politics. For example, when the EC tried to use economic pressure to secure human rights improvements, China’s no-strings rule gives dictators the means to resist. It is argued that the capital exporter will control bargaining leverage on sensible issues, like human rights, which would virtually result in an erosion of Western soft power.

D. Challenges Ahead, But Still Resolvable

1. The Paramount Challenges

Global governance should be seen as a matter of creating the appropriate legal institutions to protect human rights. However, China’s agenda is notably at odds with rules and norms generated by Western-dominated institutions and processes on the protection of human rights. It is particularly difficult for the West to pursue when China is sitting on trillions of dollars. China’s large SWFs

159 Joseph Nye, ‘Soft Power’ (1990) 80 Foreign Policy 153, 171
160 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
161 William Norris, ‘Thinking Clearly About China’s Economic Statecraft’ Précis (Spring 2009)
resources allow it to be a game-changing force in both the developed and developing world, one that threatens to obliterate the competitive edge of Western corporations, and blunt criticism of human rights abuses in China.\textsuperscript{162} In practice, most EU member states are willing to leave the heavy lifting on human rights issues with regard to China to the common EU institutions.\textsuperscript{163} In spite of efforts made recently by the European External Action Service (EEAS), there is neither the capacity nor the power within that department to deal with both policy development and coordination.\textsuperscript{164} If the EU is not seen as being consistent on the issue, China would take it for granted that its government’s lack of respect for citizens’ human rights is a matter of no consequence as far as its relations with Europe are concerned. The contentious perception will inevitably lead to further difficulties in the European-Chinese relationship at a later stage.\textsuperscript{165}

Although the EU has little leverage regarding the human rights issue in China, it does need to enhance the credibility of its approach. From the host state’s perspective, it is plausible to imply the causal connection and highlight the success of the “divide and conquer” tactic, which however, would not work if the EU and its member states could consistently speak with one voice.\textsuperscript{166} It is advisable that all EU nations should coordinate coherently on China’s violations of international norms on human rights. A further harmonisation is needed to present a viable and unified policy and help convince the member states to adopt it. After all, Europe can only have a meaningful impact on the global system if it brings together its economic weight, along with European values and principles such as good governance, rule of law and human rights as a political sounding board.\textsuperscript{167}

2. Review China’s Influence More Objectively

China’s capacity to deploy such economic pressure with its trillions of SWFs should not be overestimated, neither can it be ignored.\textsuperscript{168} Overestimation on SWFs as potential tools of political

\textsuperscript{162} Heriberto Araújo and Juan Pablo Cardenal, ‘China’s Economic Empire’ The New York Times (1 June 2013)
\textsuperscript{163} Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Kitchen, Nicholas (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) 19
\textsuperscript{164} Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Kitchen, Nicholas (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) 19
\textsuperscript{165} Odd Arne Westad, ‘China and Europe: Opportunities or Dangers?’ in Kitchen, Nicholas (ed.) Europe in an Asian Century: Europe between the Superpowers (SR013. LSE IDEAS, October 2012) 19
\textsuperscript{166} Gudrun Wacker, ‘Testimony before the U.S.-China Economic and Security Review Commission’ Hearing on the China-Europe Relationship and Transatlantic Implications (19 April 2012) 5
\textsuperscript{167} Ulrike Guérot, ‘Europe and the Future of Global Governance’ (September 2013) 4
influence fails to take into account its investment philosophy and motivation objectively. Certain fears may rest upon some tenuous assumptions. Firstly, SWFs are neither the major repositories of China’s controlled wealth, nor the financial tool through which China might seek to exert financial influence for political gain. Apart from the CIC as the country’s flagship SWF, China’s State Administration for Foreign Exchange (SAFE), which manage China’s central bank reserves and is not generally considered an SWF, has made significant investments in global equities. In addition, state-owned enterprises (SOEs) and State-controlled national champions represent additional distinct investment vehicles. Arguably, if China sought to use financial tools to advance foreign policy goals, such considerations would be involved in portent investment by SOEs. Secondly, SWFs’ home government and host countries have mutual interests, including the stability of the financial system. As China integrates itself into the global economy, it will face a growing demand in political freedom. The increase in economic freedom is sure to have a positive impact on China’s civil society and foster political reform, that is, as China moves closer toward a free-market system, people will demand greater political autonomy, which will undermine the CCP’s monopoly on power.

China’s increasingly complex global economic and strategic interests will further compromise its commitment to strict conceptions of state sovereignty. SWFs should be held to the same high human rights standards as governments rather than the lower ones as those of private financial institutions. Thirdly, human rights require not only formal procedures, but also a culture of the rule of the law. China lacks an independent judiciary and press that create the cornerstones in a functioning democracy. In this regard, China’s model may have emerged paradoxically to rival the “Washington Consensus” of neo-liberal market economy, i.e. the rule of law, democracy and proper

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protection of human rights.\textsuperscript{177} However, China will not become an exporter of legal and law-related ideas, such as the so-called Beijing Consensus. As Goldstein observed, it is China that needs to adapt to the world, not the other way around.\textsuperscript{178} Regarding its governance in terms of authoritarianism, China may need to cultivate a reputation as a responsible member of the international economic system.\textsuperscript{179} China attempts to gain influence through its powerful SWFs, but there is a long way for China to go in order to be recognised as a responsible global power.\textsuperscript{180} In order to achieve such a goal, it is vital for China to undertake institutional, political and legal reform and respond effectively to the policy complexities inherent in SWFs. It is of great significance to strike a balance between ensuring the benefits from Chinese SWFs and protecting from its harmful effects.\textsuperscript{181}

3. Separate SWFs-Based Investment from Human Rights Concerns

As discussed above, it is specifically the state ownership and a presumed tool to advance China’s national interests abroad that makes SWFs of interest as a matter of foreign policy.\textsuperscript{182} More specifically, the Chinese SWFs investment is always accompanied by implicit conditionality affecting the EU’s human rights policies. The ‘divide and conquer’ policy contradicts the trend of reducing the role of government in the global economy.\textsuperscript{183} Given the inseparableness between economic, social and political developments, critical commercial and political pressures could be imposed on SWFs to maximise their financial performance.\textsuperscript{184} Norway’s Government Pension Fund, as an illustrative

\begin{itemize}
  \item Jacques deLisle, ‘Law and China’s Development Model’ in Philip Hsu, Yu-Shan Wu and Suisheng Zhao (eds.) \textit{In Search of China’s Development Model: Beyond the Beijing Consensus} (Routledge, 2011)
  \item Heriberto Araújo and Juan Pablo Cardenal, ‘China’s Economic Empire’ \textit{The New York Times} (1 June 2013)
  \item Sovereign Wealth Funds: Foreign Policy Consequences in An Era of New Money’ \textit{Hearing before the Committee on Foreign Relations United States Senate} (S. Hrg. 110-765, 2nd Session 110th Congress, 11 June 2008) <http://www.gpo.gov/fdsys/pkg/CHRG-110shrg48061/pdf/CHRG-110shrg48061.pdf> 49, 56
\end{itemize}
example, is vigilant in avoiding investment in companies associated with human rights abuses.\textsuperscript{185} Even so, it is logical and moral to separate SWFs-based investment from human rights policies in considering China’s objectives.\textsuperscript{186} The proper function of government is not to restrict economic interaction at the expense of human rights.\textsuperscript{187} It should make certain that SWFs operating strictly according to their commercial rather than foreign policy interests is an overriding issue.\textsuperscript{188} The exercise of ownership rights shall be mainly based on the OECD Guidelines for Corporate Governance and for Multinational Enterprises.\textsuperscript{189} China’s SWFs should not use their stakes to exercise political influence over Western firms. The Chinese government need to get out of SWF investment and leave markets alone, after all, free trade & investment is not a privilege but a right.\textsuperscript{190} As state-owned entities, SWFs should be held to the highest standards of due diligence in terms of human rights.\textsuperscript{191} Otherwise, it retards significant efforts at human rights promotion in China. The best way to promote human rights in China is to develop free trade and investment, which can be used as leverage to open China to competitive forces and let the rule of law and democratic value evolve.\textsuperscript{192} Rather than politics interfering with business, engagement with SWFs could result in best business practices spilling over into better political relations.\textsuperscript{193}

4. The Transnational Regulatory Framework: The U.N. “Protect, Respect, Remedy” Framework

China’s laws contain many provisions that parallel those binding international legal norms, which Constitution explicitly provides that the state respects and preserves human rights.\textsuperscript{194} The United Nations Universal Declaration of Human Rights (UDHR) is a common standard of achievement for

\textsuperscript{185} Gordon Clark, Adam Dixon and Ashby Monk, Sovereign Wealth Funds: Legitimacy, Governance, and Global Power (Princeton University Press, 2013) 43; Chris Armstrong, ‘Sovereign Wealth Funds and Global Justice’ (2013) 27 (4) Ethics and International Affairs 1, 16
\textsuperscript{186} Salar Ghahramani, ‘Sovereign Wealth Funds, Transnational Law, and the New Paradigms of International Financial Relations’ (2013) 8 (2) Yale Journal of International Affairs 52, 64
\textsuperscript{188} Sovereign Wealth Funds: Foreign Policy Consequences in An Era of New Money’ Hearing before the Committee on Foreign Relations United States Senate (S. Hrg. 110-765, 2\textsuperscript{nd} Session 110\textsuperscript{th} Congress, 11 June 2008) <http://www.gpo.gov/fdsys/pkg/CHRG-110srg154061/pdf/CHRG-110srg154061.pdf> 46
\textsuperscript{189} Simon Chesterman, ‘The Turn to Ethics: Disinvestment from Multinational Corporations for Human Rights Violations-The Case of Norway's Sovereign Wealth Fund’(2008) 23 (3) American University International Law Review 577, 615 at 588
\textsuperscript{191} Gordon Clark, Adam Dixon and Ashby Monk, Sovereign Wealth Funds: Legitimacy, Governance, and Global Power (Princeton University Press, 2013) 67-85
\textsuperscript{193} Christina Madden, ‘Sovereign Wealth Funds under Scrutiny’ Policy Innovations (21 May 2008)
\textsuperscript{194} PRC Constitution Law 2004 Article 33 (3): “The state respects and guarantees human rights.”
all nations, to which China has frequently declared its adherence. More recently, the U.N. "Protect, Respect, Remedy" framework is made up of three pillars: the State duty to protect against human rights abuses by third parties, including business; the corporate responsibility to respect human rights, which means to avoid infringing on the rights of others; and greater access by victims to effective remedy, judicial and non-judicial. China is advised to adopt legislation consistent with these principles enshrined in the tri-pillar regulatory framework. Another UN Guiding Principles on Foreign Debt and Human Rights also underscores the importance of States and international financial institutions to honour their obligation to respect human rights. The general concern to safeguard the UN human rights machinery is shared also by China. The acceptance of international human rights law notably has coincided with certain improvement in human rights conditions in China. It is now relatively acceptable to criticize China’s human rights shortcomings and to challenge regime failures to live up to the human rights legal obligations that it has accepted.

Nevertheless, the existing international soft initiatives as well as the legal regime applicable to SWFs seem insufficient in respect of China’s unilateral subtle sanction. Dowell-Jones was not optimistic and observed that:

“the mapping of human rights accountability into financial institutions has so far followed a piecemeal, soft law approach built largely around a subsidiarity model of risk that has only effectively reached a few corners of the financial markets.”

It seems that much remains to be done to promote a better understanding of the legal and economic implications of the interface between the SWFs financing and human rights. It remains unclear whether the non-legally binding soft initiatives would mitigate the concerns resulting from China’s strategic approaches.

199 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
Although the scope and range of Western legal influences on China have expanded tremendously since the beginning of the Reform Era, the future trajectory is uncertain. China’s adoption of Western legal ideas still reserves so-called Chinese characteristics. China still has to learn to play by Western rules in relation to its SWFs to some extent, which can potentially contribute to at least rule of law and democratisation. Arguably, China has not evidenced significant sustained interest in integrating or democratizing the international regulatory system, including the norms of the protection of human rights. China’s human rights record has been further marred by recalcitrance in allowing the use of the international legal means under the UN Charter to address atrocities in areas where China has influence; such as Sudan. Its engagement with international human rights law has made foreign laws and norms more salient.

**Conclusion**

With the world’s largest capital surplus, China has become a pivotal player within the global economic system. This paper explores the challenges posed by the influx of the Chinese SWFs into the EU and its potential implications for Sino-EU relations. The study also explores whether and how SWFs can be exploited to advance some strategic political objectives, such as slowing down or even blocking the promotion of human rights. To explore such controversies, this paper provides deep insights into the relationship between the sovereign financing and human rights, of which the SWFs are becoming larger sources of cross-border investments and raising delicate concerns about the protection of human rights. Conventionally, SWFs have played a constructive role in injecting liquidity into the global economy, which have proven to be a source of capital at a time of volatility in the global financial markets. China has also long been engaging in political manipulation and making use of its economic instruments to advance the political interests. Specifically, it has been deploying its SWF as leverage for strategic advantages and diplomatic objectives. In particular, China has threatened economic sanctions through SWFs to counter criticism of its human rights policy. Given amidst the current global economic crisis, China’s expanding use of the unilateral sanctions has

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206 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
207 Jacques deLisle, ‘China’s Legal Encounter with the West’ (June 2008) <http://www.fpri.org/articles/2008/06/chinas-legal-encounter-west>
significant implications for the EU member states. If the Chinese government can blunt pressures toward human rights, then the West will need to recalculate its long-term approach toward China. Thus, there is an urgent need for more systematic and robust legal and economic thinking about the SWFs financing and human rights issue.