

Richard Levick on the Changing U.S.-China Relations



Not too long after 9/11, LEVICK was asked to defend the Kuwaiti detainees at Guantanamo. As staunch U.S. allies, the Kuwaitis wanted to distinguish their detainees who had been swept up in the U.S. dragnet that had detained many hundreds of Arab men, in some cases, with little or no information connecting them to terrorism. The U.S. Supreme Court would rule on behalf of these detainees' rights on three separate occasions but it would take a sustained media campaign to change the will of the U.S. government.

In the shadow of this historic tragedy, it is understandable why initially few American politicians, editorial boards or

citizens were concerned about due process and the presumption of innocence. It would take several years, but in time, a majority of Americans and nearly all major editorial boards recognized that you could have justice and due process. There would be some uncomfortable moments – the recognition that we were being followed and recorded or when the *Wall Street Journal* devoted its entire Op-Ed page (the only time I know of in the past 40 years) to severely criticize our work and that of the lawyers defending these detainees. Through back channels the Bush Administration made it clear that, “We have a job to do; you have a job to do. We think we have the better argument, but let’s see.” Through the courts and media the two sides made their arguments. In time, all but one of the Kuwaiti detainees would be rendered and released. It was a difficult but fair fight.

Today, when we represent Chinese companies, it feels much different. There is more fear among Chinese companies and their American consultants. In recent conversations with journalists, lawyers and others, we have been discussing why it is so much more challenging now for Chinese companies already in and trying to enter the U.S.

Many of the press releases and allegations I have read from U.S. regulators against Chinese companies are a combination of extreme vagueness and extraordinary histrionics. Traditionally, they have been written the other way around.

U.S. companies – even those competing in China – as well as lawyers and academics no longer want to comment on the record in defense of Chinese companies for fear of getting crosswise with the U.S. government.

Threats of criminal charges reduce or eliminate the desire by Chinese companies in the U.S. to lobby or communicate on what just a year or two ago felt like business as usual in Washington.

The silence is deafening and it means that most of the debate on Chinese companies in the U.S. is now one-sided.

There is no question that technology raises all sorts of questions about national security. Chinese companies should be thoroughly vetted for these purposes. But now the power of the federal government is so draconian that Chinese companies are increasingly skipping the American market; those that are here are not participating in the public debate.

I had a fascinating conversation with Robert Lewis of docQbot – which aims to improve the delivery of legal services in China with advanced technology – that ran on *The Weekly*, our podcast for Asian-MENA general counsels in partnership with *In House Community*. We cover a lot of ground, and his views on U.S.-China relations are well worth the listen.

Enjoy the listen.

Richard Levick

[Listen here](#)