

Behind the Farce of the Meng Wanzhou (& Huawei's) Ordeal: Maneuvers in a Hegemonic Duel

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The detention in Vancouver of Meng Wanzhou during a transit stop as from December 1, 2018, raises a wide range of questions, many of a serious legal nature. My paper proposes to tease them out for examination, with a view to discovering the ultimate motive behind the U.S. initiative on Meng, placing her and her giant company, Huawei, on public trial as a result.

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The fussy questions regarding due process include, for example: Why was she treated as if she were already a criminal without a trial and, as such, was locked up while being denied parole by a Vancouver judge who refused to accept a bail by her husband because he was not a Canadian citizen? Even after she was finally paroled, she continued to be kept under house arrest in Vancouver wearing leg fetters, like a convicted criminal. Why so?

Washington wanted her extradited to the United States for trial on charges related to her company's breach of U.S. policy and law banning trade with Iran. But, this was unilateral U.S. policy. Unless it was sanctified by the United Nations with a large enough vote margin that demonstrates an *opinio juris communis*, it would have no binding force on China and, for that matter, on Canada or any foreign country.

Other questions relate to the massive U.S. campaign against Huawei Co. itself beginning with its rationale. Could it be prompted by concerns over the unrivaled technological advance in Huawei's 5G products?

Hence, is it possible to derive a conclusion from these puzzles that it was Huawei's unrivaled technological edge (G5) that did it in, and that the ostensible charge that the company had breached the U.S.-imposed ban on trade with Iran was just a convenient pretext, a façade for the whole scheme out to kill a competition from China as a threatening rival?

During a brief transit stop in Vancouver, on December 1, 2018, Meng Wanzhou (also known as Sabrina Meng), the chief financial officer (CFO) of Huawei, a giant Chinese global company, was arrested by Canadian authorities, on a warrant issued by a New York court seeking her extradition to the United States.¹

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¹ "A Timeline of the Cases of Meng Wanzhou and the Canadians Detained in China", Canadian Press, 24 December 2018; also the timeline of the Meng Wanzhou case in Wikipedia, the free encyclopedia.

Her continuing detention ever since, pending her extradition hearings scheduled as far off as January 20, 2020, or 13 months later, raises a wide range of questions. Many are of a serious legal nature, but apparently prompted by serious political motives.

This paper proposes to tease out these and other related questions for examination, with a view to ascertaining the ultimate motive behind the U.S. initiative on Meng, placing her and her company on public trial as a result. Among the issues worth looking into are, first, those concerning due process, followed by others including some that may qualify as “petty maneuvers”.

Due Process and Certain Petty Maneuvers

The fussy questions regarding due process include, for example: Why was Meng arrested by the Canadian authorities on a warrant issued by a New York court, instead of a Canadian warrant? Moreover, why was she treated like a criminal without a trial and, as such, was locked up while being denied parole by a Vancouver Prosecutor who refused to accept a bail by her husband because he was not a Canadian citizen? Even after she was finally paroled, she continued to be kept under house arrest in Vancouver wearing leg fetters, as if she had already been convicted a criminal. Again, why? You may ask.

Washington wanted Meng extradited to the United States for trial on charges related to her company's breach of U.S. policy and law banning trade with Iran. But, this was unilateral U.S. policy and law. Unless sanctified by the United Nations by a large enough vote margin manifesting an *opinio juris communis* (i.e., general will of the world community), it would have no binding force on China and, for that matter, on Canada or any other foreign country.

On another front, the New York court had issued the warrant as early as August 22, 2018 for Meng's arrest during her forthcoming transit stop in Vancouver 100 days later, on December 1, 2018. How did the United States so far ahead get to know Meng's precise itinerary, unless by means of electronic espionage over Meng and, possibly, over her company in China? Yes, hacking espionage is, precisely, what Washington often accuses the Chinese of doing against the U.S.

Another question related to the persistent U.S. attempts to urge European and other countries not to purchase Huawei's AI products by labeling them “security risks”, linked to their alleged use of built-in, but unproven, eavesdropping chips. The Trump administration even put a ban on Huawei, calling on 150 U.S. companies not to trade with it.

In all, what was the rationale for this massive U.S. campaign out to get Huawei? Could it be prompted by concerns over the unrivaled technological advance in the company's 5G products? By contrast, U.S. companies lagged far behind at the 4G level. And, 5G equipments are known at least to be 100 times faster.

Ultimately, is it possible to derive a motive from behind these puzzles—that it was Huawei's unrivaled technological edge that did it in, and that the ostensible charge that the company had breached the U.S.-imposed ban on trade with Iran was just a convenient pretext, a façade for a scheme to kill a menacing competition from China as a threatening rival?

On the due process issue, Meng's lawyers on March 3, 2019, filed a suit before the British Columbia Supreme Court, alleging that she had been detained, thoroughly searched, and interrogated by agents of the

Canadian Border Services Agency (CBSA) before she was finally informed that she was under arrest. Later, her legal team argued that her case should be tossed out because her arrest was an abuse of due process.

In a tit-for-tat retaliation, China arrested two Canadians in China on flimsy charges, hoping it would force Canada to release Meng in exchange, but to no avail.

In subsequent litigations, Meng's lawyers brought up a critically important issue in her defense against extradition—that the fraud charge she is facing in the United States is for a crime that does not exist in Canada. This is another way of acknowledging that the case against Meng does not meet the requirements of the principle known in international law as Double Criminality, since it is based on a breach of U.S. sanctions on Iran that do not apply to Canada. Defense lawyer Scott Fenton described President Donald Trump's comments suggesting Meng could be part of a trade deal with China as “intimidating and corrosive of the rule of law” (Hager & Xu, 2019).

Speculation on U.S. Motives in the Context of the Trade War

There is good reason to speculate why the Meng Wanzhou case—maybe we should call it the Meng-Huawei case—is related to the larger U.S. trade war with China and, more in particular, generated by a fear of China's rapid ascent as an economic contender, including its edge over transformative technology. To appreciate this point, let us trace this U.S. fear to the factors that had spawned the trade war in the first place.

By 2011, China surprised the world by overtaking Japan as the world's second largest economy, a position which Japan had occupied for over three decades. Three years after that, China replaced Germany as the world's largest trading nation. And, America's enormous trade deficits became a fixture bedeviling US-China relations. Hence, the cries of the “China Threat” began to ring loud and clear, throughout America. If the fear as such generated a skirmish on President Obama's time, it certainly has degenerated into a drawn-out and costly, even senseless, conflagration under President Trump since 2017. The trade war, in other words, assumed the menace of a nasty new Cold War.

U.S. Deficits Rooted in Domestic and Structural Causes

The real causes of the U.S. deficits, in fact, may be more elusive than we might think. In mid-March, it became known that America's total world-wide trade deficits, on goods and services, had widened to a whacking 621-billion dollars in 2018.

This piece of information threw into bold relief two closely related points:

- One, the grand total nearly doubled the U.S. trade deficit with China. It means the other half of America's total trade deficits came from America's other trading partners.
- Two, in order to make credible his charges against China, Mr. Trump would need to show that America's sizeable trade deficits with Europe and other areas were caused by an equivalent of unfair trade practices he laid to China. Otherwise, his accusations of China would hardly be convincing.

Now, the paradoxical consequence of Trump's tariff solution—or non-solution—serves only to verify that America's trade deficit problem, other than the accused Chinese unfair practices, is more rooted in what some experts—like Jeffrey D. Sachs, the noted economist from Columbia University—call “structural imbalance” (Sachs, 1988).

The structural causes include the Chinese labor cost advantage, and, conversely, America's prohibitively high wages—thanks to strong labor-unionism, to boot. Among the other structural causes are: America's high insurance and transportation costs, extraordinary lawyers' fees, etc. As a result, American consumers have, for years, become addicted to less expensive, but no less well-crafted, imports, mostly from China.²

These woes, accounting for the structural imbalance in the U.S.-China trade, cannot be easily rectified. But as long as they remain in place, bilateral relations are not likely to improve.

In theoretic language, and in the long view of history, the rapid rise of China created an eerie fear shattering the American psyche. It recalls the meteoric rise of Athens that instilled a dreadful scare in Sparta, the reigning superpower in ancient Greece, during the 5th century B.C. That ended in the classic Peloponnesian War, as superbly re-counted by the legendary historian Thucydides. Hence, the term "Thucydides Trap" came down to be known for any such exigency as pitting a rapidly rising power (like today's China) against a reigning superpower (like the United States). Graham Allison, the Harvard professor, conceptualized the current US-China square-off as verging on just such a war-prone Thucydides Trap (Allison, 2017).

The Clout (Threat?) of the Huawei Co.

The Huawei Technologies Co., Ltd. was founded in 1987 by Ren Zhengfei. Initially focused on manufacturing phone switches, the company has expanded its business to include building telecommunications networks, providing operational, and consulting services and equipment to enterprises inside and outside of China. As of September 2018, it had 180,000 employees, around 76,000 of them engaged in research and development (R & D), in which the company had invested US\$13.8 billion as of 2017.

In 2007, Huawei began a joint venture with U.S. security software vendor Symantec Corporation, known as Huawei Symantec, which aimed to provide end-to-end solutions for network data storage and security.

In May 2008, Australian carrier Opus announced it would establish a technology research facility with Huawei in Sydney. In October, the same year, Huawei reached an agreement to contribute to a new GSM-based HSPA+ network being deployed jointly by Canadian carriers Bell Mobility and Telus Mobility, later joined by Nokia Siemens Networks. Huawei delivered one of the world's first LTE/EPC commercial networks for TellaSonera in Oslo, Norway in 2009.³

In July 2010, Huawei was included, for the first time, in the Global Fortune 500 list for the year, published by the U.S. magazine *Fortune*.

In 2015, for the first time, Huawei's foreign contract orders exceeded its domestic sales. It signed a Global Framework Agreement with Vodafone, which marked the first time a telecommunications equipment supplier from China had received Approved Supplier status from Vodafone Global Supplier Chain. Huawei also signed a contract with British Telecom (BT) for the deployment of its multi-service access network (MSAN) and Transmission equipment for BT's 21st Century Network (21CN).⁴

² This is the conclusion drawn by an economist, Paul Krugman, who is also a columnist of the New York Times, as given in his column dated March 8, 2019.

³ Sourced from Wikipedia, the free encyclopedia.

⁴ Ibid.

Recent performance: As of the end of 2018, Huawei sold 200 million smart-phones. Strong consumer demand for premium range smart-phones helped Huawei reach consumer sales in excess of US\$52 billion in 2018. Huawei announced worldwide revenues of US\$105.1 billion for 2018, with a net profit of US\$8.7 billion.⁵

In view of these achievements in rapid succession, Mr. Trump has all the reasons to be thoroughly scared of the threat posed by Huawei in his trade war with China.

The U.S. Fear of Being Displaced and the Ban on the Huawei Co.

I would extend this discussion to a conceptual source of Trump's fear that fueled his new Cold War on China. As some analysts have noted, for Mr. Trump, the real problem is ultimately rooted in his conceptualization of the re-rising China as a geoeconomic threat to—even potential denial of—America's hegemonic leadership. The over-riding question for him is no less than: Who will dominate transformative technologies, such as 5-G, artificial intelligence, robotics, and the like? The belief is that whoever dominates these technologies will lead the world for the future. In view of Huawei's lead in 5-G and AI technology, China appears to be heading toward just such a position. It is not surprising that Trump fears an America being displaced by China. Just look at Huawei, it is poised to claim close to half of the 5G market worldwide, nudging the technological center of gravity away from Western (U.S.) telecom vendors, and sounding alarms about China's potential ability to outstrip America (Hart, Snyder, & Fischer, 2019).

Thus, the fear of being displaced by a China that is technologically-savvy and economically powerful, is, indeed, typical of Washington's habitual preoccupation over two centuries, as Michael J. Green noted in his book *By More Than Providence* (Green, 2017). In this light, Mr. Trump's political motive behind the maneuvers against Huawei is not an idiosyncrasy of any one person like Mr. Trump alone.

The U.S. does not make its 5G equipment but is using its military, security, and intelligence heft to pressure allies not to use China's technology. To Trump's astonishment, however, not all of U.S. allies share the same apprehension. The U.K. and Germany, for example, have not rejected Huawei outright. And, precisely because of the advanced 5G technology its products offer, Huawei was able to enter into over 50 sales contracts with foreign countries, including four of the "5-Eye Group" in 2018.⁶

According to one report, the Huawei Co. has been having an amazing run in the release and sales of its smart-phones, bringing in innovations that distinguish its flagship phones from those of its competitors. But the furor generated by the ban on Huawei in the U.S. still continues to resonate even in other climes. Japan, for instance, joined the countries that would not deploy Huawei's 5G technology. However, Huawei is undeterred. A spokesman of the Chinese Ministry of Foreign Affairs revealed that companies from more than 20 countries had signed commercial deals on 5G mobile networks with Huawei. He specifically mentioned Portugal, France, and Germany, implying that such examples were enough to show that Huawei was gaining trust from an increasing number of America's close allies (John, 2019).

⁵ Ibid.

⁶ The so-called "5-Eye Group" is a reference to the five countries whose native language is English, thus "5E": Australia, Canada, New Zealand, U.S., and U.K. The U.S. is the only exception of this group, with its ban on Huawei.

The bottom line is: China's lead in building the next-generation network is seen as a sign of a decline of U.S. tech leadership in the mobile internet field, and as a symbolic point of no return for Chinese economic supremacy (Hart, Snyder, & Fischer, 2019).

Huawei's Lead Over the U.S.

Barely any U.S. company manufactures the most crucial components for 5G technology. President Trump has urged American companies to "step up" and compete to provide the next generation of high-speed, low-lag wireless service known as 5G. As Brian Fung (2019) noted, however, there is just one problem: Barely any U.S. company manufactures the technology's critical components.

Carriers such as Sprint and Verizon have moved swiftly to launch 5G services for consumers. But, the wireless gear they rely on still comes from foreign suppliers, such as Sweden and Finland, not to mention China (Huawei and ZTE). Despite the rising global demand for 5G equipment, the United States, a technological leader in other domains, is largely absent from the wireless networking industry.

Huawei's market share, at 29%, is nearly as large as the combined share of its two competitors, Nokia and Ericsson, which account, respectively, for 17% and 13% (Fung, 2019).⁷

At an industry conference in Barcelona in early 2019, U.S. officials, as before, urged allies in bilateral meetings not to use Huawei equipment out of the usual eavesdropping allegations. Europeans' response was the usual "where is the smoking gun?" On this, some analysts say that in an earlier era, America's allies might have been more sympathetic. But, Trump's conduct, such as berating NATO allies, canceling a visit to a World War I memorial because of rain, and calling Europe a "foe" on trade, has not helped, they say (Fung, 2019).

U.S. Ban on Huawei Escalates: From Trade War to a Tech Cold War

By giving Huawei Technologies what one analyst called a "death penalty", the Trump administration has escalated tension with China to a level of hostility that can only be described as a tech Cold War (Lopez, 2019). In May 2019, the Trump administration put Huawei on the Commerce Department's "Entity List". The listing can make it impossible for any company to do business with American firms. This is a big problem for Huawei, as the U.S. is the home to one in four of the company's suppliers. As noted by the risk consultancy Eurasia Group, without U.S. suppliers, Huawei would be unable to conduct even routine maintenance and hardware replacement (Lopez, 2019).

Worse still, a bipartisan group of U.S. Senators were working on legislation that would put a ban on selling technology to any Chinese company that violates U.S. sanctions by doing business with rogue countries like Iran and North Korea. A bill sitting in the Senate Judiciary Committee was called the China Technology Transfer Control Act (CTTCA). It would place all core technologies developed through China's "Made in China 2025" on the Commerce Department's export-control list, along with Huawei. In other words, the CTTCA would explicitly seek to thwart China's plan, under the "Made in China 2025", to evolve its economy into a major player in the global tech market. As such, they are no usual trade-war moves. They are (new) Cold War moves (Lopez, 2019).

⁷ These are based on figures compiled by the research firm Dell Oro Group, for December 2018, cited in Fung, 2019.

Huawei's Reactions to the U.S. Ban

From the scanty information we have, Huawei's reactions can be summed up in three different ways. First, it went to the courts to sue the U.S. government, in two different instances. In the suit for recovering some equipment confiscated by the U.S. government, it won. But its other suit against the U.S. ban, filed about the same time in March 2019, got nowhere (Jiang & Siu, 2019).

Second, Huawei's founder and CEO, Ren Zhengfei shared his views about how to end the whole tech war. In two separate interviews,⁸ Ren said his company may offer to build up its 5G patents, licenses, code, and technical blueprints in a potential one-off transaction to a foreign (presumably U.S.) firm. At the time of this writing, though, there was as yet no taker of Ren's offer. But, there was no lack of critics. One resident scholar with the American Enterprise Institute (AEI), for example, reacted by calling it a "Trojan Horse". He went on to volunteer his reasons why Huawei products could undersell their American counterparts—because of what he called the "substantial government subsidies underpinning Huawei's foreign deals" (Barfield, 2019). The truth of the matter, as one analyst points out, is that Huawei is entirely private, taking nothing from the government. Ren owns 1.47% [sic] of the company, and the rest is owned by a trade union (Lopez, 2019).

Third, reacting to the U.S. ban, Huawei has reduced its dependence on U.S. companies for core products. It has also cut the production of non-core products that depend on U.S. components. The rationale is that even assuming U.S. companies stop shipments altogether, Huawei would still be able to carry on its business (Tayal, 2019).

Concluding Remarks

A number of points can be drawn from the above analyses. Three in particular are worth special mention, as forming a conclusion.

First, the arrest, and subsequent prolonged detention, of Meng Wanzhou is part of the U.S.'s duel against Huawei in Trump's intensified trade war with China, which has degenerated into a new Cold War, with a tech war added on (Bloomberg, 2019).

Second, the ordeal visiting upon Sabrina Meng and her company was a maneuver, among many, pulled off by Washington, with Canada acting as a cohort. They were meant to combat, nay, kill, a stiff competition from Huawei, the world's lead maker of the 5G telecommunication equipment, caught in a tight tech war between the U.S. and China. Reputedly, 5G boasts of a 100-fold faster speed than America's 4G technology; and furthermore, 5G allegedly could pre-set accurate weather forecasts by 30 years. Thus, the mere fact that Huawei poses as a threat to America's tech leadership in the world is clearly understandable. Equally understandable is why the rapidly rising China, armed with this high-tech sophistication, has instilled an inexplicable fear into the American psyche. The fear translates into a nightmare of being displaced by China as the ultimate hegemonic leader of the 21st century.

Our title contains a question: What lies behind the farce of the Meng Wanzhou (and Huawei's) ordeal? The answer is: a lot—quite a lot. It is part of a hegemonic duel between the world's two greatest economies.

⁸ One with New York Times columnist Thomas Friedman (NY Times, 11 Sept. 2019, p. A31), and the other with the Economist's Asian correspondent Hal Holdson.

Third, although it may be too early to know the ultimate consequence of the all-out trade war, the data available thus far indicate it is a double-loss game. On the one hand, China's GDP growth rate has plummeted to a paltry 6.2% rate, the lowest since 1978, when record keeping began. On the other hand, America's trade deficit from the China trade has also hiked by 7.7%.

The trend seems likely to continue. Likewise, it appears, the Meng-Huawei ordeal, which is but a cog in a wheel of America's grudge at the heart of the U.S.-China hegemonic duel, festooned with the trappings of a tech-tinged trade war poisoned in a Cold War ambience.

Postscript: an Update

Belatedly, on May 27, the Canadian Supreme Court ruled in favor of the U.S. request for the extradition of Ms. Meng. It did so by shifting the emphasis of the original charge from violating the U.S. ban on trading with Iran to that of "fraud". The subtle shift, which found Meng tricking a foreign bank into releasing funds to Iran, made her extraditable under international law, which requires "double criminality" before an extradition treaty can take effect.

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