

International Law

The Fang Scenario for Chapter Four

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Below is a description of an event that occurred in the 1990s. I have changed some names, dates, and events to make the scenario more current, more relevant, and more rich in detail. Please read the scenario (including all questions asked at the bottom) carefully. If you would like to read the actual account of Fang in the US Embassy, please read China Hands: Nine Decades of Adventure, Espionage, and Diplomacy in Asia, by James and Jeffrey Lilley.

On June 24, 2009, a well-known dissident in the PRC covertly entered the US Embassy in Beijing seeking diplomatic asylum. Fang Lizhi (方励之) is a prominent astrophysicist, human rights advocate, and leader during the Tiananmen Square protests of 1989 (for which he became known as China's Andrei Sakharov). Fang remains in the US Embassy to this very day, refusing treatment for his heart ailment for fear of arrest and detention by Chinese authorities. Fang's asylum request has yet to be resolved. Moreover, no diplomatic arrangements have been made regarding his safe passage out of the People's Republic of China.



Last week (October 2, 2009), Fang's immediate family (wife and adult son) joined him in the US Embassy by hiding in rolled-up carpets being transferred by carpet layers. The next day, at a press conference held in the Embassy, Fang declared his intention to defect to either the United States or to the United Kingdom. (In fact, Fang just wanted out of the PRC, "I make this call to the society of civilized states: Help me flee the dangerous repression of China. Use all diplomatic means necessary to pressure the butchers of Beijing!")

The current US Ambassador, Jon M. Huntsman, Jr., after consultation with his superiors in the US Department of State, asserted that the "granting of asylum at this critical time might jeopardize the US negotiations with China over human rights issues." After further consultations with the US Secretary of State and with the British Foreign Secretary, David Miliband, the parties decided that Fang Lizhi should apply for British citizenship. While Fang has never been outside China, much less to the United Kingdom, the British government was willing to waive all extant citizenship requirements, including the standard waiting period of thirty months.

This morning, the United Kingdom officially issued Fang Lizhi and his family British passports, which were delivered to them at the US Embassy in a jar of coconut macaroons.

Unfortunately, the Chinese government protested (and continues to vociferously protest) these actions of the United States and the United Kingdom, accusing both of meddling in the domestic affairs of a sovereign State. The PRC is not willing to allow the safe passage of Fang, or his family, from the US Embassy to Beijing Capital International Airport.

The Chinese government's Minister of Foreign Affairs, Yang Jiechi, continues to advise all concerned that this dissident, engaging in anti-State conduct, will be arrested the moment he leaves the embassy. In the eyes of the PRC government, Fang remains a Chinese citizen, and, as such, a subject of Chinese laws.

Within the past week, Huntsman has noticed (and has informed his superiors) that there appears to be an increased number of Chinese military troops walking by the US Embassy. The PRC government denies this is related in any way to the Fang Affair and sent an official communique to Huntsman: "We remind the Ambassador Extraordinary and Plenipotentiary to the People's Republic of China from the great United States of America that these movements are standard security movements designed to allow our citizens to freely celebrate the upcoming traditional Tuen Ng Festival (端午)."

Questions

- You are the PRC. You want to keep Fang from leaving. What is your International Law argument in not allowing him freedom of movement from an embassy to the airport?
- You are the United States. You want Fang to leave. What is your International Law argument allowing him freedom of movement from your embassy to the airport?
- You are the United Kingdom. You also want Fang to leave. What is *your* International Law argument allowing him freedom of movement from an allied embassy to the airport?
- You are Fang Lizhi. You *really* want to leave the PRC. What is *your* International Law argument allowing you freedom of movement from an embassy to the airport?

Which of these four arguments is strongest?