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EU HUMAN RIGHTS DIALOGUES
CURRENT SITUATION, OUTSTANDING ISSUES AND RESOURCES

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1. INTRODUCTION

On 22 June 2007 the Leuven Centre for Global Governance Studies and Research Group on Human Rights and International Justice organized, in cooperation with the European Master's Programme in Human Rights and Democratization, a workshop on European Union Human Rights Dialogues (HRD). The workshop was co-chaired by professor Jan Wouters and professor Paul Lemmens. The aim of the workshop was to have a general discussion on and critical assessment of HRD from different perspectives (academic, policy and NGO). The programme of the workshop and the list of participants are included in annex 1 and annex 2 of this brief. The workshop was held under Chatham House Rules. No statement in this document can be attributed to a specific speaker.

The aim of this policy brief is to give a general overview of outstanding issues and resources/references with regard to Human Rights Dialogues. In general Leuven Centre for Global Governance Studies policy briefs aim to stimulate further discussion and research on relevant topics.

2. HISTORY AND CURRENT SITUATION

Following the UN Commission on Human Rights' inability to address well documented violations of human rights in China several countries (Canada, Australia, Norway amongst others) and the European Union installed formal bilateral HRD. This led the European Union to develop a new type of policy instrument – EU Human Rights Dialogues. The EU guidelines on HRD were drafted during the Belgian Presidency in the second half of 2001. They were adopted by the Council on 13 December 2001. The two main aims of the HRD are to improve the human rights situation in the country with which the dialogue is initiated and to keep the channel of communication with regard to human rights open. Additionally, the dialogues are designed to ensure consistency and coherence while keeping a flexible approach so as to make tailor-made approaches for the countries concerned possible.

A framework for conducting dialogues was developed and revised by the European Commission (see resources 1 and 3). This framework includes:

- criteria for establishing dialogues (which were slightly revised in 2004)
- procedural guidelines
- objectives (discussion of questions of mutual interest, registration of concern, dedication to improvement)
- benchmarks
- the goal of broad participation by the target country
- involvement of civil society during and after

The EU's first institutionalized HRD was initiated with China. To date there have been 23 rounds of discussions that have addressed a wide range of issue areas. The most recent being in May 2007 in Berlin, which ended in a "walk-out" due to Chinese officials refusing to discuss the issues at hand in the presence of the two EU-nominated NGO's. In 2002 an institutionalized dialogue was maintained with Iran, however, since 2004 the dialogue has been suspended. A third major country with which bilateral discussions on human rights were organized is Russia. The EU-Russia *consultation* (it was stressed that the term 'dialogue' was refused to be used by Russia as they did not want to be in the same category as Iran and China) has taken place five times.

More recently dialogues with Central Asian countries have been initiated. These countries include: Uzbekistan, Turkmenistan, Kazakhstan, Kyrgyzstan and Tajikistan.

A different form of dialogues, based on reciprocity, are conducted with Egypt, Morocco, Israel, Jordan, Lebanon and Tunisia in the context of EU-ENP relations. As these dialogues are held on a “reciprocal basis” the country concerned can equally raise human rights issues facing the EU.

Finally, it should be noted that under the framework of the Cotonou agreement, there are currently 30 (out of 77 ACP countries) ongoing “Article 8” dialogues that address issues concerning human rights, democracy and the rule of law.

The European Parliament (Committee on Foreign Affairs – Subcommittee on Human Rights) is in the process of preparing a report on the functioning of the human rights dialogues and consultations on human rights with third countries (see resources 6 and 7).

3. OUTSTANDING ISSUES

Several important outstanding issues were discussed during the workshop. Some of them are more elaborated in the documents listed under resources (see especially resources 6, 7, 17, 21).

3.1 Issue of participation/involvement. More participation in the official process from different actors should be considered in order to achieve four objectives: (1) more exchange of information, (2) bringing more expertise in the dialogue, (3) increase legitimacy and (4) strengthening the leverages for change via inviting all relevant actors in a given country and start a dialogue with all of them. This might include:

- Involvement of a network of academics (both EU and country academics) or even return to the initial idea of transferring the organization of HRD to independent academic institutions.
- Involvement of EU-based and country-based NGOs. It should be noted that this might generate problems since some NGOs are refused by specific countries.
- Involvement of all European Union political institutions in the dialogue (in the official process) and especially the European Parliament.
- Involvement of officials from ministries outside the Ministry of Foreign Affairs.

3.2 Issue of assessment, effectiveness and causality. An excellent report from 2005 entitled “Indices, Benchmarks *Indices, Benchmarks, and Indicators: Planning and Evaluating Human Rights Dialogues* (resource 21) outlines a framework of how to develop and assess HRD’s as a policy instrument. Currently, a consistent review mechanism of benchmarks is not in place even though there is a clear need to assess the impact of HRD especially with regard to achieving benchmarks. This is a clear defect of current dialogues.

These assessments however should be realistic in terms of which goals/expectations can be achieved via HRD. In this context it is important to make a distinction between the objectives of the HRD as such and the objectives of the EU’s human rights policy in general. HRD should be considered and assessed as a complementary instrument to other policy instruments such as démarches or UN resolutions. Further, as it takes time to bring about change it is important to consider the ‘time dimension’ and view the dialogues as an incremental process. An essential

element in HRD and its assessments is the government's willingness to improve their human rights situation. Accordingly, a more general framework for assessing HRD is desired to serve as a starting point.

3.3 Issue of coordination. Many bilateral dialogues exist today. As highlighted in the introduction, individual countries, in parallel to the EU, are also involved in Human Rights Dialogues. In order to make the dialogues more effective there is need to look at the entirety of the dialogues, including all bilateral dialogues at all levels. Currently the only forum to coordinate and exchange information is the Berne Process, launched by the Swiss government. Further initiatives similar to the Berne Process are needed to enhance cooperation.

3.4 Issue of conditionality. One option for the future might be to attach conditions to starting and continuing dialogues. In addition, HRD could be framed within a clear time-frame. A lack of conditions attached to the dialogue can result in deadlock. An exit option should also be considered. On the other hand, the design of the dialogues should not be too strict in order to have some flexibility.

3.5 Issue of trade-off between transparency and confidentiality. Benchmarks play a major role in the HRD process and to various actor's discontent these benchmarks are not made public. The main issues arising from this is transparency, therefore, requests have been made by such actors to be included more in the process. Hence a balance needs to be established between transparency and confidentiality. There are naturally split views regarding this issue.

3.6 The issue of credibility and reciprocity. For the moment many dialogues are one-way and human rights issues within the EU are not discussed. There should be room in the dialogues to discuss human rights issues within the EU. This may as a result add credibility to the HRD and heighten participation from the countries involved.

3.7 Issue of negative consequences. Several drawbacks may result from engaging in HRD, three of which need to be highlighted. A first danger of initiating dialogues with unwilling governments is that they do not want to discuss human rights outside the established EU framework and may not wish to enter into dialogues elsewhere such as in the UN. A second danger is that governments may also (ab)use the dialogue to show the international community that they are committed to human rights without any substantial progress. Thirdly, the mere existence of the dialogues may lead to wrong impressions, implying that human rights are negotiable. The latter is potentially a dangerous development.

3.8 Issue of resources and funding. A final issue which was discussed concerned the funding of the dialogues. More funding is needed in order to continue and assess the dialogues. A possible involvement of other actors might contribute to more funding.

4. RESOURCES AND REFERENCES

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Section 3.4: *Human Rights Dialogues (including Guidelines on Human Rights Dialogues) and ad Hoc Consultations.*
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9. Parlement européen Note d'information : Les consultations sur les droits de l'homme entre l'UE et la Russie. Auteur : Anne le Huerou, sociologue, chercheur associée au CADIS (EHESS/CNRS). 2007 avril. (EXPO/B/DROI/2007/18)
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Section 5.5 Human Rights Dialogues

ANNEX 1

EU Human Rights Dialogues - A Critical Assessment 22 June 2007

Programme

Part 1: Tobias King, Magalie Jurine, Eva Sanjun, Nathalie Rondeux, Antoine Madelin
Time: 14:00 – 15.45
Topic: Human Rights Dialogues: Overview of Procedures and Current Situation

Chair: Professor Jan Wouters

Tobias King (European Commission - DG RELEX): A view from the European Commission: current situation, goals and achievements.

Magalie Jurine (Assistante d'Hélène Flautre MPE): Des dialogues droits de l'homme dans le cadre de l'Union européenne et au regard des activités de la Sous-commission droits de l'homme du Parlement européen.

Eva Sanjun (Assistante d'Elena Valenciano MPE): Le rapport sur les dialogues droits de l'homme du Parlement européen

Nathalie Rondeux (Belgian Ministry of Foreign Affairs): A Member State's Perspective on Human Rights Dialogues

Antoine Madelin (FIDH): Role of NGO's in EU human rights dialogues: is there room for improvement?

15.45 – 16:00: *Coffee Break*

Part 2: Annabel Egan, Susi Dennisson, Emma Achilli, Frauke Seidensticker
Time: 16:00 – 17:45
Topic: Human Rights Dialogues in Context (China, Iran and ACP Countries) and Overall Assessment

Chair: Professor Paul Lemmens

Annabel Egan (National University of Ireland, Galway): EU-China dialogue: origins, effectiveness and reform.

Susi Dennisson (Amnesty International, EU Office): AI's assessment of human rights dialogues with reference to the EU-Iran dialogue.

Emma Achilli (European Commission – DG RELEX): Political dialogue in ACP countries: what is the weight of human rights?

Frauke Seidensticker (German Institute for Human Rights): Indicators and benchmarks for human rights dialogues: Thinking it through.

17:45 – 18:00: Concluding Remarks by Professor Paul Lemmens

ANNEX 2

ATTENDEES

WORKSHOP 'EU HUMAN RIGHTS DIALOGUES – A CRITICAL ASSEMENT'

Ms Emma Achilli	European Commission
Ms Zoi Aliozi	E.MA Student Sevilla
Ms Sue Basu	Leuven Centre for Global Governance Studies
Mr Tim Corthaut	Faculty of Law
Mr Stijn Deklerck	Faculty of Law
Mr Bruno Demeyere	Faculty of Law
Ms Susi Dennisson	Amnesty International, EU Office
Ms Ellen Desmet	Faculty of Law
Ms Annabel Egan	NUI Galway - Irish Centre for Human Rights
Ms Christine Frison	Faculty of Law
Ms Montserrat Gonzalez Garibay	Faculty of Social Sciences
Ms Magalie Jurine	European Parliament
Prof. dr. Stephan Keukeleire	Faculty of Social Sciences
Mr Tobias King	European Commission
Prof. dr. Paul Lemmens	Faculty of Law
Ms Haina Lu	Faculty of Law
Mr Antoine Madelin	FIDH
Mr Axel Marx	Leuven Centre for Global Governance Studies
Mr Michael McNamara	Faculty of Canon Law
Mr Guido Oestreich	E.MA Student, Coimbra
Ms Nathalie Rondeux	Belgian Ministry of Foreign Affairs
Ms Eva Sanjun	European Parliament
Ms Silke Maria Schwenk	Faculty of Law
Mr Simon Schunz	Leuven Centre of Global Governance Studies
Ms Frauke Seidensticker	German Institute for Human Rights
Mr Andrew Sulle	Faculty of Social Sciences
Ms Anna Siedlecka-Van Rumst	Faculty of Law
Ms Andrea Subhan	European Parliament
Ms Jeanie Tomkin	E.MA Student, Leuven
Ms Marta Udina	E.MA Student, Leuven
Prof. dr. Wouter Vandenhole	University of Antwerp; Tilburg University
Prof. dr. Geertrui Van Overwalle	Faculty of Law
Mr Mathias Vermeulen	E.MA. Student, Hamburg
Mr Maarten Vidal	Faculty of Law
Prof. dr. Jan Wouters	Leuven Centre for Global Governance Studies

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