

**Moving beyond Symbolism in the EU-China relationship:
an ECFR-OSF workshop 20 April 2011**

This workshop convened policymakers, thinkers, and NGOs with expertise on both China and human rights, for a lively brainstorming on how to move beyond the current impasse in relations between the EU and China on human rights.

The timing of the discussion, against the backdrop of the Arab Spring and the simultaneous Chinese repression of internal dissent and calls for similar revolutions, meant that questions such as whether Europe and China are positioning themselves on the side of history, and how to implement a foreign policy with a strong human rights component, threaded strongly through the debate.

The first session was aimed at *'Exploring the frontiers of change in China on human rights and rule of law'*. Speakers emphasised that in the promotion of a legal system functioning in the public interest human rights and economic development are intertwined. Businesses need predictability to operate, and so their interest in established rule of law is in line with that of the rest of the population.

Many small pilot projects which push boundaries within the legal system, usually at a local level, under the radar, and not attracting much government and media attention are underway in China today,. Some particularly interesting examples are in the field of environmental law, and also looking at mental health as a defence in death penalty cases. However, for these small scale projects as with more high profile initiatives, there is a limit to the extent to which the Chinese one party state will allow the rule of law: eventually the envelope is pushed too far and you reach the CCP's limit. This does not mean that progress is not made, but this is the reality of project work in China. Currently, the Chinese government is unsettled by the growing strength of defence lawyers, and is hitting back, (as the recent disappearances of Teng Biao and subsequently Hu Jia's lawyer, Li Fangping have shown). On these more high profile trends there is a clear need for European governments to engage too at a diplomatic level, drawing attention to the individual cases in order to protect the development organisations' operating environment. This high- and public-profile work cannot be done by the organisations themselves.

Media law was highlighted as another area where there is a pressing need for a clearer legal framework for Chinese journalists to work within. There simply isn't a legal framework at the moment. And that is on top of censorship. What is allowed one day is not necessarily allowed the next which means that journalists often have to self-censor. As a result, some parts of the media get very sensitive very quickly if they think they are being pushed to promote political reform beyond their comfort zone.

It is not the practice of journalism, but the parameters, that are now being debated in China. Media freedom is often discussed at the highest levels in the CCP and the central Chinese government has asked big media corporations in central China to take on a stronger role in 'quality control' of local media. There are mixed feelings within Chinese media companies about taking on this role. Some speakers suggested that there is a potential role for the EU in supporting development of media and internet regulation.

The Chinese media as a whole is currently making a lot of money, largely through advertising and there is potentially a lot that Western media companies could learn from this, but there is very little profit in investigative journalism. Nevertheless there are a few thousand investigative journalists, with whom international media development programmes are able to co-operate, and exchange expertise. The point was made that journalism doesn't have to go to the brink of

legislation to promote change: good investigations even in the more mainstream areas promote discussion and add to the debate without necessarily being dangerous to the individual. However this smaller group of investigative journalists working on corruption and more sensitive questions do need political support and are able to have a much broader impact than their number on promoting change within China.

Many participants asked about the extent to which the Chinese government's nervousness about reverberations of the Arab revolutions in China is affecting the work of journalists in China. It was reported that the new context is certainly more dramatic. Three investigative journalists with which the International Media Support group works with have recently been fired. In social media, a lot is being censored, but not everything. Development organisations are responding to the tougher climate by holding seminars and events outside China, rearranging references to initiatives on their websites etc, so for the time being, co-operation has not stopped altogether.

In the second discussion, on *Silent diplomacy versus public outcry* there was a strong message that if and when change comes, it will come from within China, but that internal activists need to hear supportive international voices. The Chinese government's main focus is on stability and this is always emphasised in dialogue with the EU – but the real debate that Europe should be having with China is how to achieve this stability while respecting human rights.

In the discussion, speakers argued that the international community should keep in mind that there will be material consequences for the global system if China does not change its human rights record. For example, if we want European companies to compete inside China on a level-playing field, we not only need market access, but an effective and reliable legal system under which the businesses can operate. The divisions between decision making on EU foreign policy on human rights and other interests – such as economic and trade co-operation therefore make less and less sense.

In China, house and food prices are increasing outside big cities: life is becoming less affordable and squeezing the middle classes. This will be a preoccupation of the Chinese government over the coming years and may make it even harder to engage on more classic human rights. The argument for entering these discussions through the lens of economic, social and cultural rights is therefore likely to become even stronger.

Simple though it sounds, a key challenge for the EU (and particularly the recently operational European External Action Service EEAS) is to identify what is effective in the relationship with China on human rights and implement it. For example there is a fine balance in raising individual cases to identify whether doing so goes beyond the 'do no harm' principle. Beyond this, there is the question of whether it is helpful if different member states raise different 'pet cases' in every meeting or whether there is a more productive way of managing this dialogue.

It remains a real issue that different EU member states 'rank' human rights so differently in foreign policy towards China, and therefore give such different message about the extent to which it matters to the EU. The picture is not static either: with the financial difficulties that many member states are facing, some of those states that have historically taken a more principled approach - and pressed for a stronger EU voice on human rights such as the Czech Republic, Bulgaria - are now questioning whether their priority needs to be to attract more Chinese investment as senior Chinese diplomats do the rounds of the more 'friendly' or 'flexible' member states.

It is never really a binary choice between passing public and private messages to the Chinese: without the public element, the Chinese are unlikely to take the private messages seriously, but in reality the majority of diplomacy does take place behind closed doors. The example was raised of Baroness Ashton's paper early on in her term of office (which was supposed to be private) characterising the arms embargo as an impediment in the EU-China relationship. This was not contradicted publicly so the Chinese government took this as a message that the EU was no longer serious about the arms embargo and raised the pressure on this as a result. To move this debate forward, the EU now needs to articulate clear indicators for the lifting of the embargo.

Many participants felt that the EU China human rights dialogue is an idea that has run its course: it has always been something that has been very confined to the diplomatic sphere, and the interesting discussions to have are those that take place outside the confines of this forum, with all of the baggage that is now attached to it. After strong resistance from the Chinese to holding another round, the EU has now negotiated a continuation of the dialogue but on the agreement that this will be delinked from the civil society seminar – this really shows that the EU is now very much the demandeur in this relationship, and unclear from this how much can really be achieved through this process.

However this leaves the vexed question of what possibilities for engagement the EU would be left with if it did agree to drop the human rights dialogue. Some argued that the EU could go back to tabling resolutions at the UN. Those on the policy making side argued strongly that although this had once been an effective threat, the world had changed. The EU would be likely to present an even less united front, with the Chinese playing member states off against each other. In the Human Rights Council it simply wouldn't be possible for the EU to build a cross regional coalition to support a motion against China.

Finally, questions were raised around the level of secrecy of the decision making around the EU China relationship, and whether the relationship should be the domain solely of diplomats. Not only do we want European Parliament, civil society, to remain engaged, we want businesses and the private sector more engaged in promoting political reform. Perhaps there is room for more transparency and realism with stakeholders about how priorities are decided.

Over dinner, following a concluding keynote speech on the EU's human rights strategy with regards to China, there was a lively debate on ***China's international role*** – with specific reference to its engagement in Africa. Speakers emphasised the importance of looking at how Africa is shaping China as well as vice-versa, emphasising that African politics is the driving force in the EU-Africa-China relationship. Africa is not homogenous, and there are a range of countries and companies that shape Chinese international policy.

China entered a pre-existing political economy in Africa and had to work with what was there whether they were democracies, autocrats or other types of regime. Sustainability of Chinese ties and how to improve African governance are two big concerns in Beijing. China is currently very preoccupied with what is going on in Egypt, where it has invested very heavily and is trying to get to know the incoming regime.

A key question for China is how it can exercise a political and security engagement commensurate with its investment in Africa, and is keen to develop its soft power, through understanding why major investment is not feeding through into popularity in Africa. Development policy perhaps has a broader definition in Beijing than in Europe as a result, but is not particularly co-ordinated between the different ministries, and is still led by the ministries of foreign affairs, trade and communications.