OPEN LETTER : HUMAN RIGHTS IN CHINA

EU / China

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- [english] - Region - Asia - China - EU / China -

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Description :

In advance of the upcoming session of human rights dialogue between the European Union and China later this month, we urge you to take full account of the deteriorating human rights situation in China and to co-sponsor a resolution on China at this year’s session of the U.N. Commission on Human Rights, as strongly advocated by the European Parliament in its January 20 resolution.

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To the Ministers for Foreign Affairs of EU Member states
To the EU High Representative, Javier Solana
To the European Commissioner Chris Patten

Re : 56th Session of the UN Commission on Human Rights
Constructive dialogue between China and the European Union

Your Excellencies,

In advance of the upcoming session of human rights dialogue between the European Union and China later this month, we urge you to take full account of the deteriorating human rights situation in China and to co-sponsor a resolution on China at this year’s session of the U.N. Commission on Human Rights, as strongly advocated by the European Parliament in its January 20 resolution.

Human Rights in China (HRIC) and the International Federation for Human Rights Leagues (FIDH) are not opposed to bilateral dialogue on human rights matters, or to cooperation or aid programs aimed at achieving improvements in human rights through such measures as funding legal aid programs and legal education, or providing human rights training to officials involved in law enforcement. It is clear that ending abuses of human rights in China and creating effective protections for rights there will require many such actions. Achieving these aims also depends on the long-term process of heightening awareness of human rights among the general population and the development of the domestic human rights movement. However, different approaches in promoting human rights should be mutually enhancing rather than exclusive. What our two organizations are seriously questioning is the substitution of quiet diplomacy to multilateral pressure as a way to improve the human rights situation in the People’s Republic of China.

Human rights abuses have reached such alarming proportions over the past year that HRIC and FIDH believe that the Government of China is currently conducting the most ruthless repression of dissent since the trials of 1989 protesters. The most visible examples of persecution include the sham trials and harsh sentencing of China Democracy Party members, Falungong practitioners and other activists to up to eighteen years’ imprisonment. Moreover, more than a decade since the June 4th, 1989 Beijing massacre, hundreds of Chinese citizens remain in prison merely for exercising their right to peaceful protest. And hundreds of thousands of China’s most marginalized people, including migrants, homeless, street children and the mentally ill, are arbitrarily detained in ongoing “clean-up” campaigns to rid the streets of those deemed undesirable by urban authorities. We understand that the decision of the European Union to table a resolution would be re-examined every year, depending on the progress of the human rights situation in China. We strongly believe that there is sufficient indication that in the field of human rights there has been a radical step backwards. We encourage the European Union to draw the necessary conclusions and reverse its decisions of the previous years in favour of supporting a resolution on China at the Commission on Human Rights.

A common argument against the tabling of a resolution is the claim that attempting to hold China accountable at the Commission has been an ineffective exercise. In fact, it has never actually been tried. Yet, although the resolution has never been adopted so far, it has provided a key focus for debate about the status of human rights in the PRC and has also been an important form of pressure on the Chinese authorities. The experience of the last several years demonstrates the Chinese government’s extraordinary sensitivity to the prospect of a debate on its human rights record in the U.N.’s highest human rights forum, since, among other things, it would mandate some specific monitoring of China’s human rights situation. The record shows that the kind of pressure resulting from the tabling of
a resolution on China has generally been a successful tactic for achieving concessions from Beijing, such as occasional releases of prisoners, promises to sign U.N. treaties, or steps toward legal reform. By the same token, when the prospect of a resolution was abandoned, these concessions dwindled. When announcing the renewal of its dialogue with China, the European Union justified its move by listing a number of similar concessions, presented as indications that Beijing was making progress in the field of human rights. In fact, after China made these few "gestures of good will," it rid itself of public and multilateral pressure. Without such pressure, these gestures might not have become "bargaining chips" in the first place. Now that pressure from the European Union has disappeared altogether, dialogue alone does not seem to give China enough incentive to "continue with even such symbolic concessions," let alone follow through with concrete actions.

China's much-vaunted cooperation with the U.N. human rights mechanisms are all too often of similar quality. Of course, the precedent set by such cooperation is part of an important shift towards Beijing slowly acknowledging the legitimacy of international monitoring of its human rights practices. In reality the methodology and effects of such interventions leave much to be desired. A great deal is made of the fact that they happened at all, but there is little attention to what, if any, results were achieved in terms of improving the human rights situation. China has signed both the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), but it will not be bound by the treaties until it ratifies them. And in fact, while there is no timetable for ratification of the covenants, China has continued to engage in egregious violations of the standards they contain.

The text of the never-adopted resolution on China at the UN Commission on Human Rights included a request that China increase its cooperation with the Thematic Procedures of the Commission on Human Rights. The October 1997 visit to China and Tibet of the Working Group on Arbitrary Detention is a case in point. The visit came at a high price: the Working Group stopped considering any cases of alleged arbitrary detention involving people in the PRC submitted to it for a year and a half. Thus, in return for the visit to China, the monitoring of individual cases - a fundamental part of the Group's mandate - was effectively halted. Despite such a major concession, and a preparatory visit, the Working Group's program in China was entirely set by Beijing. Under such conditions, the Working Group's much-praised permission to unsupervised interviews with detainees in some of the facilities it visited was rendered virtually meaningless. When dealing with the communications from the Office of the High Commissioner for Human Rights, Chinese officials' replies are too often inaccurate, in blatant contradiction with the information provided by victims of rights abuses themselves or by their families. Lastly, although the visit to China by the High Commissioner for Human Rights was supposed to be the first step towards a Memorandum of Understanding leading to the implementation of technical cooperation projects, negotiations have been brought to a standstill since the March 1999 Needs Assessment Mission. Given the precedent of the Working Group on Arbitrary Detention's visit, as the Special Rapporteur on Torture is preparing his visit to China, one may wonder how much leeway he will have in organizing his mission in accordance with his own working methods.

These various examples are an indication that, so far, Chinese cooperation with UN human rights monitoring mechanisms has been largely pro forma. Yet, the political gain of these symbolic gestures for the Chinese government has been enormous, for they have allowed China to evade scrutiny at the UN Commission on Human Rights.

Since both parties insist that dialogue is not bound by any condition, this approach to human rights should not be an alternative to public scrutiny by the Commission on Human Rights, which is mandated to examine the human rights situation in every part of the world. As a member of the U.N. bound by its Charter and a party to a series of human rights treaties, China has voluntarily accepted the responsibility to be accountable to the international community on human rights. Supporting a resolution on China this year will send a strong and necessary signal that egregious violations of human rights are not acceptable. Most critically, the main impetus for change will come from within China, and we believe international, particularly multilateral, pressure provides crucial leverage to those forces inside China that favor progress towards more respect for human rights. Thus we urge the European Union to support a resolution on China's human rights situation at the 56th session of the UN Commission on Human Rights.
Very truly yours,

Liu Qing
President
HRIC

Patrick Baudouin
President
FIDH
Xiao Qiang
Executive Director
HRIC

Antoine Bernard
Directeur Exécutif
FIDH

Enclosure :

RECOMMENDATIONS CONCERNING THE DIALOGUE ON HUMAN RIGHTS BETWEEN THE EUROPEAN UNION AND CHINA

Egregious violations of human rights are not acceptable, regardless of a nation's history, culture or rate of economic growth; improvements in human rights do not excuse a government from scrutiny of its practices. Governments should be prepared to discuss their own human rights records, and should not refrain from raising specific concerns about China's.

All programs associated with such dialogues should be established on a basis of transparency and accountability, with cooperation programs carefully designed so that they address the real causes of human rights violations. Regular, independent evaluation of programs should be undertaken, so as to ensure that they continue to work towards such objectives.

A more pluralistic dialogue, which involves actors independent of governments, would better serve the cause of human rights. Truly constructive dialogue can only occur when China allows for the participation of independent social groups, scholars and lawyers and other individuals.

In terms of objectives, dialogue should concentrate on achieving tangible results, such as gaining the release of human rights activists and other prisoners of conscience, further revisions of the criminal law to bring it into conformity with human rights norms and the abolition of reeducation through labor and other forms of administrative detention. Another focus should be persuading Beijing to accede quickly to treaties to which China is still not a party, particularly those which are included in the International Bill of Human Rights. Prime focus should also be placed on implementing the provisions of these, and of the treaties China has already signed.

1. No compromises on human rights standards

Dialogue partners should not accept any preconditions which compromise human rights principles or weaken the effectiveness of international human rights mechanisms. Dialogue should be based on respect for the existing international human rights standards and monitoring system.

International human rights norms apply to all countries equally, all are responsible for their fair and impartial enforcement and no one should be immune from scrutiny. As a member of the United Nations bound by its Charter and a party to a series of human rights treaties, China has voluntarily accepted the responsibility to be accountable to the international community on human rights. Thus it cannot claim special privileges or legitimately denounce international monitoring as interference in its internal affairs.
Dialogue and cooperation programs must not be used to undermine other approaches to achieving improvements in human rights conditions in China.

2. A clear, substantive agenda
A clear agenda for substantive discussions should be prepared in advance of each dialogue event. The focus should be achieving specific objectives, such as pushing for medical parole for dissidents with serious health problems, raising concern about the use of "state security" as a rationale for suppressing dissent, improving prison conditions, getting China to sign more U.N. treaties and gaining full access to China for U.N. human rights working groups and special rapporteurs and the International Committee of the Red Cross.

Dialogue should not be continued at all costs. If there is no progress on eliminating the sources of human rights abuses and establishing protections for rights, dialogues should be suspended. If there is no means of addressing a particular human rights issue through the dialogue process, other avenues, such as multilateral action, should be pursued.

3. Transparent and accountable process with independent participation
Transparency and accountability should be fundamental principles for all participants in dialogue and cooperation programs. Dialogue must include NGOs and independent activists inside China. Dialogue partners should try to encourage the Chinese government to engage in dialogue domestically, rather than only internationally.

5. Coordination between dialogue partners
International coordination is essential. Countries that are engaging in human rights dialogues with China should coordinate among themselves, so as to use the opportunities most effectively and to prevent duplication and waste of resources, as well as to prevent such dialogue being used to split countries seeking improvements in China's human rights practices. Wherever possible, countries should seek to use multilateral approaches to dealing with human rights violations in China.

6. Part of an integrated strategy
Human rights should remain a core element of foreign policy relating to the PRC, with dialogue forming part of an integrated strategy. Dialogue should be one of a package of measures, and must be backed up with significant pressure, such as raising rights violations in the U.N. Commission on Human Rights and speaking out on specific instances of rights abuse. Dialogue without pressure is nothing but appeasement and will merely serve to degrade the authority of international human rights standards.

Policies on the human rights situation in China should be part of a consistent, principled approach in which all countries are subject to the same international human rights standards, regardless of such factors as their status in the United Nations or their potential as markets.