

EUROPEAN MASTER'S DEGREE IN HUMAN RIGHTS AND DEMOCRATIZATION

*Dialogue or "in the Tunnel at the End of the Light":*

An Apology in Defence of *Some* Bilateral Human Rights Dialogues with China and their "Tangible" Results in Terms of Change in China's Human Rights *Cognitive* Behaviour

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July 2004

Copenhagen, Denmark

Human Rights
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Abstract

Yin and *yang*, the two opposite but complementary principles underlying the universe, are in a dynamic interdependent relationship to each other: there is no *yin* without *yang* and vice versa. It follows that, given the *yin* side of the human rights situation in China, i.e. extensive violations, there must be a *yang* side as well. In this dissertation, the *yang* side of the human rights situation in China will be identified in the following processes: China's socialization to international human rights norms, processes of dialogue with the "global human rights polity", and China's first steps towards the implementation of human rights. Thereby it is suggested that, in order to judge the human rights situation in China more objectively, one should not only consider its *yin* side, but also investigate its *yang* side.

The same observation is valid for bilateral human rights dialogues with China. Criticism generally highlights the dark side of the dialogues, i.e. the lack of "tangible results". Instead, this dissertation aims at defending *some* of the ongoing bilateral human rights dialogues with China by contrasting the darkness created by criticism with the considerable *cognitive* results that the dialogues are achieving over time, i.e. change in China's mental attitude toward human rights. The author argues that cognitive results are fundamental *prerequisites* for the implementation of human rights norms as well as fundamental prerequisites for enduring changes in China's human rights behaviour *in praxis*, i.e. a decrease in violations. By defending some bilateral human rights dialogues with China, this dissertation aims also at counterweighing the dark side of the "Chinese moon".

TABLE OF CONTENTS

Acknowledgments

Abbreviations

Introduction. Counterweighing the Dark Side of the “Moon”: Looking at the World from the Perspective of <i>Dao</i>	1
--	---

1. On “China’s Irreversible Progress toward Democracy and Human Rights”.....	6
--	---

1.1. Defining Human Rights Progress.....	6
--	---

1.2. The Idealistic Approach: “China’s Irreversible Progress toward Human Rights and Democracy”. Liu Qing’s Four Observations.....	7
--	---

1.3. The Statistical Approach: Human Rights Indicators of Conduct.....	11
--	----

1.4. The Realistic/Constructivist Approach: the Process of Socialization of International Human Rights Norms.....	14
---	----

1.4.1. Some Preliminary Remarks.....	14
--------------------------------------	----

1.4.2. The Theoretical Framework: Socialization to International Human Rights Norms.....	15
--	----

1.4.3. The “Spiral Model” of Human Rights Change.....	17
---	----

1.4.4. Our Empirical Framework: the “Nasty” Case of China.....	20
--	----

1.5. Concluding Remarks.....	24
------------------------------	----

2. Dialogue: <i>The Human Rights-friendly Catalyst</i> toward Human Rights Change.....	26
--	----

2.1. Some Preliminary Remarks.....	26
------------------------------------	----

2.2. Does Dialogue Lead to Progress?.....	27
---	----

2.2.1. No. On Dialogue Criticism.....	27
2.2.2. What is Dialogue and What For?.....	35
2.2.3. Understanding <i>How</i> , <i>What</i> , and <i>Whom</i>	38
2.2.3.1. Understanding <i>What</i> and <i>How</i>	38
2.2.3.2. Understanding <i>Whom</i> and <i>Who's Perspective</i> on Human Right.....	40
2.2.4. Dialogue Can Lead to Progress or...on Dialogue's "Tangible Results": Some Cases of a Better Mutual Understanding hence Changes in China Human Rights <i>Cognitive Behaviour</i>	42
2.2.4.1. The Case of the EU-China Dialogue on Human Rights and its Ramifications.....	43
2.2.4.2. The Case of the Danish-Chinese Dialogue and Cooperation: a Quiet Space for Mutual Understanding and More.....	48
2.3. Concluding Remarks.....	56
3. Future Work: Questioning Philosophy and Enhancing Dialogue...Processes.....	57
3.1. Some Preliminary Remarks.....	57
3.2. From "Conscious Status" versus <i>Which</i> "Prescriptive Status"? Questioning Philosophy May Help. "Human rights Cannot Skirt the Demand for Justification".....	59
3.3. Interconnecting Elements: Dialogue, Philosophy and Sinology.....	65
3.4. Combining Strategies: What about Dialogue plus Pressure?.....	68
3.5. Concluding Remarks.....	72
Conclusions: What Has To Be Done When Human Rights Have Not the Same Appeal as <i>Cartier</i> and the Same Taste as <i>Pepsi</i>	74
Photo: <i>L'Armata Rossa beve la Pepsi (The Red Army drinks Pepsi)</i> by Marco Cimino	

Bibliography

1. Books, Reviews, and Articles
2. Internet Sources
 - a. Articles
 - b. Websites
3. Seminars
4. Interviews

Annex

- Map of the “spiral model” of human rights change by T. Risse and K. Sikkink

Acknowledgments

I am greatly indebted to my research supervisor Prof. Hatla Thelle for valuable assistance and co-operation anytime everywhere.

Furthermore, I am very grateful to the whole China unit at the Danish Institute for Human Rights, especially, to Dr. Morten Kjaerum for giving a lot of suggestions and wise scholarly advice.

My profound thanks go to Prof. Li Buyun for giving me a lot of inspirations during a four ours true dialogue in Beijing. I am very thankful also to the Chinese scholars of the Chinese Academy of Social Sciences who were willing to undergo my interviews just after an EU-China Dialogue session, during their Labour Day vacations, under a heavy sun.

I am very grateful to Prof. George Ulrich whose philosophy gives a clear answer to much of the scepticism about dialogues with China on human rights.

My gratitude goes also to Prof. Manfred Nowak. Listening to him at the EU-China Dialogue session in Venice, inspired me the idea of an "all in one" strategy, i.e. a verbal pressure included dialogue.

Finally, a special thank goes to Prof. Jürgen Habermas who, in his letter, prompted me to go to China and have a dialogue with the Chinese scholars at the Academy of Social Sciences. He wrote: "Go and talk with them." And this, I simply did.

Xiexie nimen!

ABBREVIATIONS:

AI: Amnesty International

CASS: Chinese Academy of Social Sciences

DCHR: Danish Center for Human Rights

DIHR: Danish Institute for Human Rights

HRIC: Human Rights in China

HRW: Human Rights Watch

IOs: International Organizations

INGOs: International Non-Governmental Organizations

NGOs: Non-Governmental Organizations

PRC: People's Republic of China

Introduction

Counterweighing the Dark Side of the “Moon”: Looking at the World from the Perspective of *Dao*

In Chapter II of the *Zhuangzi*¹, entitled “Discourse on Seeing All Things as Equal” (*Qiwu Lun*), the Chinese Daoist thinker Zhuangzi (ca. 369-286 B.C.E.) makes a radical distinction between the common form of knowledge i.e. “small knowledge” in the text and the greater form of knowledge or the perspective of *Dao* i.e. “illumination” in the text. Zhuangzi describes the “small knowledge” as the vision of a frog from a pit; it just can see a piece of sky but thinks it is the whole sky. In other words, all knowing remains confined to the standpoint of the knower.

On the contrary, to consider things from a higher perspective means to see them “in the light of the sky” i.e. to see them from the perspective of *Dao*. In this perspective, even though things and phenomena are different, they are not opposite, “they converge and become one.” Thus, those who consider things and phenomena in the world from the perspective of *Dao* do not perceive right and wrong as opposite. They perceive both as being in a dynamic interrelation.

It is very regrettable that we do not often position ourselves in that perspective. But may be it is also too high an ambition. At least, however, we could try to consider both the *yin* and the *yang* aspects of the same thing or the same phenomenon.²

¹ After the *Daodejing* of Laozi, the *Zhuangzi* of the homonym Chinese thinker is the second most important daoist writing.

² In Chinese ancient cosmology *yin* and *yang* are fundamental principles underlying the universe. *Yin* is the principle associated with femininity, passivity, cold, obscurity, etc. *Yang* is the principle associated with masculinity, action, warm, hardness etc. These principles are interrelated but are also opposite to each other as sun and moon, cold and warm, negative and positive, etc. Thus, by saying that we should take into consideration both the *yin* and the *yang* aspects of a certain thing means to take into consideration both the positive and negative side of it, and when judging phenomena, it means to take into consideration both what is happening in negative and what is happening in positive.

In the perception and judgment of things and phenomena in the world, we often have the tendency to consider only one aspect of the entity in question, moreover, most of the time we perceive and judge what we *see* forgetting about what is *behind* what we see.

This is very much the case of the Western perception of the human rights situation in China as confirmed by H. Thelle who argues that, “Through selection and the twisting together of horror stories [about China] we end up receiving a distorted picture. The reality is in fact something far more complex than this.”³ When considering the issue of human rights in China in fact, the tendency is to concentrate attention exclusively on violations ignoring if something else than what we see, somewhere else than where we are, is going on.

Bilateral dialogues between some Western countries and China on human rights follow the same destiny as the issue of human rights in China. Since these dialogues and co-operations have started, criticism has been only one-sided i.e. dark sided, trying to downplay bilateral dialogues as a whole, rarely providing an appropriate distinction and evaluation of these, and without investigating what dialogue i.e. the concept of dialogue, truly means and implies.

Has anybody heard about Chinese government representatives, professionals, students and teachers studying human rights in China and abroad? Has anybody ever heard that a manual on domestic violence has been published in Chinese? Has anybody ever heard about training of Chinese policemen against torture by Western institutions? No, or not much. Certainly, not as much as to counterweight the dark side of the Chinese moon.

It is the author’s opinion indeed, that in the case of China, there is an exaggerated tendency to focus on the human rights issue as it appears i.e. violations, while not the right weight and relevance are given to both the whole process of adaptation to human rights norms that the country is undergoing, and to the crucial role that some bilateral dialogues are playing in fostering it.

This dissertation is meant as an apology in defence of *some* among the numerous ongoing bilateral dialogues with China and their results in terms of what the authors terms “change in China human rights *cognitive* behaviour”. Thus,

although more implicitly, this dissertation is also an apology in defence of that part of China which is contributing to that change i.e. intellectuals, professionals, local NGOs and so on.

The structure of this dissertation is conceived as the structure of an Asiatic text which typical trait is to go like a “spiral” thus irritating impatient Western readers used to go straight to the *clou* of the issue. Such a structure, however, is sometimes inevitable when the factors that concur to the explanation or demonstration of certain phenomena are far enough from the aim of our discourse.

It will start by firstly, suggesting that there are different approaches for the evaluation of a given country’s human rights situation. It will introduce the *idealistic* and the *statistical* approaches which are considered as the most common or widespread ones in the evaluation of China’s human rights situation, highlighting their limits for our study. Instead of “dreaming” about human rights and democracy in China or concentrating once more on human rights violations, and in order to be able to judge China on the issue of human rights in a more objective manner (i.e. *Tao perspective*) in the future, it shall be proposed to concentrate attention on the process of socialization to human rights norms. This approach will be defined as *realistic/constructivist*. Thus, first of all, the socialization process to human rights norms as theorized and operationalized in the “spiral model” of human rights change by T. Risse and Sikkink shall be introduced and after, an account of the application of this model to China shall be given. Among other aspects, the application of the “spiral model” to China shows that the country is stuck at the “tactical concessions” stage of the socialization process, and that if the “diplomacy of shame” has not been ineffective in producing change in China behaviour, it has nonetheless, been *counter-productive* i.e. it has produced unexpected consequences as the rising of a strong nationalism among Chinese people, defiance, etc.

Here a question arises: since shame seems not to be the best “mode of interaction” with China, can dialogue foster change in China’s human rights behaviour?

In the following chapter (i.e. chapter 2.), first of all, the dark sided answer of INGOs (i.e. *yin-answer*) highlighting the false assumptions as well as the false

³ See Hatla Thelle, *Introduction*, in H. Thelle, *Political Development and Human Rights in China*, Copenhagen,

conception of dialogue on which their answer is grounded shall be considered. Secondly, moving from the concept of dialogue which defines dialogue not merely as a foreign policy tool but also as part of diplomacy having mutual understanding as initial target and the change in a given country's human rights behaviour as aim, contrary to the INGOs' view, it will be argued that some bilateral dialogues with China have reached a great degree of mutual understanding. Furthermore, it will be claimed that they are achieving change in China human rights *cognitive* behaviour or, in other words, change in Chinese mental attitude toward human rights (i.e. *yang-answer*). The author has chosen the EU-China dialogue among experts and the Danish-Chinese dialogue and cooperation as cases.

A new question arises here: since dialogue has provoked a change in China's human rights *cognitive* behaviour can we say that the country has moved from the "tactical concessions" stage in the spiral model of human rights change toward the next stage i.e. "prescriptive status" in the same model?

In the final chapter (i.e. chapter 3), moving from the constructivist theory and its farther conceptualization, it shall first of all be argued that for human rights norms to achieve "prescriptive status" in China, it is first necessary for those to undergo legitimation. Only when these norms are valid for Chinese people then will their universality of validity will be recognized. Consequently, it shall be argued that this ongoing legitimation of human rights through cross-cultural dialogues as the ones mentioned above is the precondition to their implementation, hence change in China human rights behaviour *in praxis*. Finally, suggestions will be made on how to enhance bilateral dialogues to accelerate their work. The author suggests some solutions in terms of interconnection of disciplines as Philosophy and Sinology, and evaluates the possibility of combining dialogue with pressure.

To conclude, the author suggests what to do when human rights seem not to have the same appeal as *Cartier* and the same taste as *Pepsi*, which is actually very much the case of China.

The point of departure of the whole dissertation lies in the following statement:

“Through selection and the twisting together of horror stories [about China] we end up receiving a distorted picture. The reality is in fact something far more complex than this. It is a pressing task to acquire knowledge and information on different aspects of this complex reality in order to help make relations with China workable, and it is a duty of Western scholars to counterweight the media focus on the dark side of modern China.”⁴

Not that the author considers herself a scholar, but she shares the concern expressed in the abovementioned statement. Moreover, she thinks that if it is about being honest and just, but it is too high an ambition to watch the world from a perspective of Dao, at least it is necessary to consider both the *yin* and the *yang* side of everything. What follows thus has to be read as an attempt to counterweigh the dark side of some bilateral dialogues with China, hence the dark side of the “moon” in question i.e. China.

⁴ *Ibidem.*

Chapter 1

On “China’s Irreversible Progress toward Democracy and Human Rights”

1.1. Defining Human Rights Progress

There are different ways to assess a given country’s human rights situation.

In the case of the PRC, the author found that to evaluate the human rights situation in this country, one can use:

- Certain patterns of change within the PRC as, for instance, the emergence of a ‘civil society’, the level of international support etc. This will be called, the *idealistic approach*;⁵
- Human rights indicators of the PRC’s conduct. This will be called, the *statistical approach*.

It is the argument, however, that no radical changes can be expected in terms of human rights performance, hence situation, of a given country if it does not achieve its socialization to international human rights norms (i.e. internalization of human rights norms into its domestic practices), and hence develop a “rule consistent behaviour”. This suggests that, instead of looking at the human rights situation of a given country as such, and if the intention is not only to improve it, but also to find out *how* (i.e. mode of interaction, strategy) to improve it, rather the socialization process to human rights of that given country should be observed, in order to determine its stage in the process and evaluate which mode of interaction its better

⁵ Here, the term *idealistic* is used in its ordinary meaning i.e. “Behaviour, thought, [approach in this case] based on a conception of things as they should be or as one would wish them to be.” For this definition, see *Webster’s. New Universal Dictionary*, World Publishing staff, 2003.

placed to accelerate the whole process. This is referred to as the *realistic/constructivist approach*.

Moving from the abovementioned premise that the achievement of the socialization process is a fundamental precondition for a progress of the human rights situation on the ground, in the following sections, the author shall first of all, introduce the idealistic and the statistical approaches and highlight their limits for this study. Consequently, it will be argued for the realistic/constructivist approach as a comprehensive theoretical and operational framework for an account of all actors and dynamics involved in a given country's process of adaptation to human rights norms. Finally, moving from this framework's application to the PRC which identifies the country's socialization process as "stalled", suggest for solutions in terms of mode of interaction to foster that process shall be suggested.

1.2. The Idealistic Approach: "China's Irreversible Progress toward Human Rights and Democracy". Liu Qing's Four Observations.

In 1999, taking an optimistic outlook Liu Qing⁶ states: "I am convinced that China has embarked on an *irreversible* course toward democracy and human rights".⁷

Liu's conviction is based on four observations.

First, China has already in place *a core group of people* who are resisting repression and persecution in the name of democracy and human rights, namely the people known as dissidents or democracy movement activists.⁸ He states: "A core group of people committed to the realization of democracy and human rights has been formed, and it also reveals the demand for democracy and human rights in Chinese society."⁹

⁶ Liu Qing is one of the most prominent of the 1978-79 generation of Chinese dissidents. Since 1989, he has been chairman of the organization Human Rights in China.

⁷ Liu Qing, *Moving in the Right Direction: China's Irreversible Progress Toward Democracy and Human Rights* (1999), in Stephen C. Angle and Marina Svensson (eds.), *Chinese Human Rights Readers (The): documents and commentary 1900-2000*, Armonk, NY, M.E Sharpe, p.436. Emphasis added.

⁸ *Ibidem*.

⁹ *Ibidem*, p. 437.

Second, the author observes that China is facing a *national crisis*. Liu Qing's idea is that since such a national crisis is growing daily in severity and will lead to social unrest, this could be avoided only by steering a course toward democracy and human rights. By 'national crisis' he lists a certain number of problems that have grown increasingly serious in China, like corruption, injustice, urban unemployment as well as the authorities' disregard for human rights such as freedom of religion and freedom of thought.¹⁰ The severity of China's problems, he argues, has been also demonstrated by such extreme reactions as the response to the NATO bombing of the Chinese Embassy in Belgrade and the repression of the Falun Gong movement. Liu considers all these reactions as a manifest sign of the deep insecurity of China's authoritarian government, and the government's desperate desire of control.¹¹

Third, the struggle for democracy and human rights in China is part of a *global trend* and therefore what happens in China concerns the international community as a whole. Although many democratic countries have been inconsistent in applying pressure on China, Liu thinks that, in the overall, the *international support* has been an important factor for the positive changes in China.¹²

Finally, democracy and human rights accord with human nature: human beings by their nature strive for dignity and rights, and only democracy and human rights can guarantee that they will achieve these. The author states: "Democracy and human rights remain without doubt the best possible choice in the present world".¹³

Even though the author shares with Liu Qing the idea that there are many different, spreading signs in today's Chinese society which easily lead us to think positively in respect to China's progress toward human rights and democracy, it is rather groundless, in the author's view, to argue about an "irreversible" progress moving only from some signs of change in Chinese society.

The first weakness in Liu's approach is his understanding of the term "irreversible". Something "irreversible" is, by definition, something that cannot be reversed. As Liu himself has pointed out the CCP has always managed to frustrate any attempt to overthrow the state-power, which is a clear and sufficient testimony

¹⁰ *Ibidem*.

¹¹ *Ibidem*, p. 438.

¹² *Ibidem*, p. 438-439.

¹³ *Ibidem*, p. 439.

that the process of liberalization and democratization is far from being irreversible.¹⁴ For something to be irreversible its foundations have to be solid enough. None of the observations on which Liu Qing founds his belief are strong enough as to say that the whole process is irreversible, as will be argued in the following section.

As far as the first observation about a “core group” is concerned, the precondition for a progress toward human rights and democracy is the participation of the society as a whole.¹⁵ Liu Qing seems to acknowledge that, a new way of working, a new *modus operandi* involving the whole society is required. He argues: “Democracy and human rights in China is a matter that concerns *the Chinese people as a whole*, and only the support and participation of the majority will give the movement continuous and resolute strength. A *modus operandi* for the future should therefore be concerned with the majority and should inspire a sense of purpose, enthusiasm, and a desire to participate.”¹⁶

It is Liu Qing’s strong belief, however, that dissidents will be the driving force of a progress toward human rights and democracy in China. He states: “I am convinced that China has embarked on the irreversible course toward democracy and human rights. This unshakable conviction is based on four observations. First, China has in place a core group of people [...] known as dissidents or democracy movement and activists”.¹⁷

Secondly, as we have already seen above, in Liu Qing’s view the national crisis represents a great opportunity for the establishment of democracy. National crisis and social unrest however, do not lead automatically to democracy. As China’s long history teaches, crisis and social unrest occurred also anytime before the taking over of the power by a new emperor.

Concerning international support, Liu’s opinion is that it has been one of the main factors that have contributed to the positive changes occurring in China. But what about the rise of defiance and strong nationalism among the whole Chinese

¹⁴ *Ibidem*, p. 437.

¹⁵ Thomas Risse & Kathryn Sikkink, *The socialization of international human rights norms into domestic practices: introduction*, in Thomas Risse, Stephen C. Ropp & Kathryn Sikkink (eds.), *The Power of Human Rights: International Norms and Domestic Change*, Cambridge, Cambridge University Press, 1999.

¹⁶ Liu Qing, *op. cit.*, 442. Emphasis added.

¹⁷ *Ibidem*, p. 436.

people as a consequence of the excessive use of shame by the international community?

Finally, to link the idea of an “irreversible” progress to the idea that everybody would recognize that human rights and democracy accord with human nature is rather idealistic. Maybe the international community is clear about it, but for everybody to acknowledge it, it is something else. How can we expect a dictator to acknowledge human rights and democracy if both work against him or more drastically, would make him lose his power and “face”?

While firmly believing in “the bright future of democracy and human rights in China”, however, further in his article, Liu highlights some of the main obstacles toward that aim.¹⁸

One of the main barriers is the change of position from the side of the international community toward China’s human rights record. After 1995, many countries relaxed the economic and political sanctions they had imposed on China hoping to secure retail for themselves in the huge Chinese market.¹⁹

The second adverse factor that Liu identifies is the disorder and chaos into which the people’s movement has sunk. He argues: “Without a culture of its own, a social movement cannot become mature or powerful.” And furthermore, he states: “The culture of the democracy movement should include rules, ethics and procedures because only an organization with good rules can become strong and successful and gain the approval of an expanding following.” He continues: “A society or an organization, a group of people can function effectively only when it has developed a new set of ethics and moral principles that guarantees in the people’s minds the realization of their collective ambition.”²⁰

To overcome these obstacles, Liu appeals for the creation of a strong domestic opposition and stronger international support. Then, the progress will naturally go on. But how all this should become true, Liu does not. Moreover, as far as the first suggestion is concerned, now that the rising economy hence, better life and living conditions are working as opium on the Chinese people it seems rather improbable that a strong opposition will emerge. As shall be argued later, indeed, this is precisely

¹⁸ *Ibidem*, p. 439.

¹⁹ *Ibidem*, p. 440.

²⁰ *Ibidem*, p. 441.

what makes the case of China a “nasty” case to deal with for the international community.

To conclude, as far as Liu’s approach is concerned, it is more a manifestation of a *belief* and a *wish* in a progress toward human rights and democracy in China, a nice prediction, but not a systematic demonstration of its true existence and dynamic. Through the author’s article, it is possible to identify some seeds of a progress but no real progress or suggestions for future work.

1.3. The Statistical Approach: Human Rights Indicators of Conduct

In this section, the author shall briefly present the *Human Rights Indicators Country and Regional Database*. This database provides very useful tools (indicators) for assessment or for evaluative studies of human rights conduct. According to Danida (the Danish Ministry of Foreign Affairs) “indicators are quantitative or qualitative statements that can be used to describe situations that exist and to measure changes or trends over a period of time”.²¹ In this definition, indicators are considered as both qualitative and quantitative descriptions of human rights situations. The authors of the database, however, emphasize that there is mostly an element of quantification and measurement in the definition.²² In so far as indicators primarily *quantify* and *measure* the countries’ and regions’ human rights behaviour considered, they represent, in the author’s a more realistic approach than the approach considered above.

In the year 2000 the DIHR has developed the *Human Rights Indicators Country and Regional Database*. As the authors state: “The database intends to contribute to strategy development and country assessment in the project work at DCHR.”²³

²¹ Hans- Otto Sano & Lone Lindholt, *Human Rights Indicators: Country data and methodology 2000*, DIHR, p. 55.

²² *Ibidem*.

²³ *Ibidem*, p. 1

The purpose is to provide the staff in Denmark and in the countries where the Danish staff works with tools of assessments in relation to human rights that allows for comparison between countries and regions.²⁴

The tools of assessment consist of Human Rights Commitment Indicators. They include indicators of conduct that focus on government formal and actual behaviour in terms of human rights because “what is needed currently in the human rights field is rather the measurement of conduct than of result”.²⁵

Formal commitment is measured in the ratification of the various instruments that make up the legal framework of human rights in a given context.²⁶

Real commitment is measured by listing actual violations in the field of civil and political rights, and by indexing levels of conduct in the economic, social and cultural sector. Real commitment in gender discrimination is measured partly by public sector employment of women, partly by adult female literacy. It seeks to determine the degree of violations in this area rather than, the number of violations that occur.²⁷

About China, the regional database informs us as follows:²⁸

	CPR violations	Formal Commitment	Social Commitment	Gender Discrimination
China	7,0	3,5	5,5	5,5

Note: range from 5.1-8.0 indicates absence of commitment; range from 2.6-5.0 indicates intermediate commitment; range from 0-2.5 indicates strong commitment.

In the year 2000, China shows intermediate commitment as far as formal commitment is concerned and absence of social and gender discrimination commitment whereas, in terms of CPR, the country counts among the most repressive regimes after Kenya and Cambodia both scoring 8.²⁹

²⁴ *Ibidem.*

²⁵ *Ibidem*, p. 66

²⁶ *Ibidem*, p. 5 and p. 66.

²⁷ *Ibidem*, p. 5 and p. 67.

²⁸ *Ibidem*, p. 6 and p. 51.

²⁹ *Ibidem*, p. 7



This approach, however, entails some limits for our purposes here.

Firstly, “real commitment of government is measured by indexing actual violations” in the field of civil and political rights. The authors state: “The idea that human rights indicators should also seek to capture repression seems very important; [...] one human rights priority must be to identify whether states actually respect and seek to fulfil the rights to which they have committed themselves. [...] Thus, our index measures, among other things, the inclination of the state to oppress specific rights.”³⁰ As many scholars have pointed out, however, considering the amount of violations as such can be misleading. It has been argued that the number of violations raises also the more states feel they are losing control meaning that something is happening...³¹

Secondly, Human Rights Indicators consider human rights-violating states in isolation meaning that they are not considered in the context of international society and without taking into account the modes of interaction between them and the international society.

As the authors acknowledge, in fact, “the indicators [...] should therefore be seen as tools for a *first* level appraisal and performance assessment. The indicators may provide a structure and useful hypotheses for such studies, but depending on the particular contexts and needs, it should be realized that the provision of a set of indicators cannot be expected to provide all the flesh needed to a particular performance or appraisal study.”³²

Also, reality is far more complex than data can show.

Thus, in the next section the author shall deal with a model that accounts for the socialization processes to international human rights norms. This framework and the model based on it can tell variations and lack of progress in terms of human rights and processes of democratization accounting for the causal mechanisms involved.

³⁰ *Ibidem*, p. 60

³¹ Liu Qing, *op. cit.* p. 438.

³² Hans-Otto Sano & Lone Lindholt, *op. cit.*, p. 56.

1.4. The Realistic/Constructivist Approach: the Process of Socialization of International Human Rights Norms

1.4.1. Some Preliminary Remarks

How can we expect a state to make progress in terms of human rights performance if it has not completed its socialization process to international human rights norms?

In this section, I shall first, introduce the constructivist approach based on the socialization process as defined by T. Risse and K. Sikkink. It will be argued that it is a comprehensive approach which helps analyze a given state's human rights behaviour in its whole dynamic. If compared with the former approach, the constructivist approach concentrates on the qualitative description of states' human rights behaviour. Moreover, this approach informs about the process in terms of regress, lack of progress or progress in terms of adaptation to international human rights norms taking into account all actors involved, and most important for our study, identifying which "mode of social action/ interaction" shall be dominant in which stage of the process. Most illuminating among T. Risse and K. Sikkink's findings is a five-phase "spiral model" which suggests that a norm-violating state has to follow a certain path or more precisely go through the different stages of the spiral model before being able to show a "rule-consistent behaviour" (last stage of the socialization process).

In the specific case of China, as a further study by Alan M. Wachman shows, since 1989 the country has made progress in terms of human rights behaviour moving from the repression (first stage of the spiral model) toward the tactical concessions stage (third phase of the same model).³³ As demonstrated by the same study, however, the diplomacy of shame which has been the prevalent "mode of interaction" between the international community and China has proved to be rather counterproductive.³⁴ This suggests that in order to push China toward the next

³³ Alan M. Wachman, *Does the diplomacy of shame promote human rights in China?*, in «Third World Quarterly», vol. 22, no 2, 2001.

³⁴ *Ibidem*, p. 257 and p. 277.

stages, (“prescriptive status” and “rule-consistent behaviour”) hence, starting talk in terms of progress in human rights performance, the “mode of interaction” between the international community and China should be reconsidered.

1.4.2. The Theoretical Framework: Socialization to International Human Rights Norms

Socialization to international norms is the crucial process through which a state becomes a member of the international society. Its goal is for actors (norm-violating states) to internalize norms, where internalization not only means incorporation of international human rights law into domestic law but also implies law’s implementation into domestic practices, so that external pressure is no longer needed to assure compliance.³⁵

A broad comparative study of how international society transmit norms to its members or how states adapt to international human rights norms led T. Risse and K. Sikkink to propose three ideal types of socialization:

- processes of adaptation and strategic bargaining;
- processes of moral-consciousness-raising, ‘shaming’, argumentation, dialogue and persuasion;
- processes of institutionalization and habitualization.³⁶

From the authors, we learn that these processes differ according to “the mode of social action/interaction” involved and that they are not mutually exclusive meaning that, during the socialization process, a process of shaming and a process of dialogue, for instance, can occur simultaneously which, into practice, shall be reflected by the combined use of both shame and dialogue by the international society toward the norm-violating state in order to assure its compliance to norms.³⁷

Indeed, the most illuminating finding of this theory for our study, concerns the identification of *which* mode of interaction dominates in *which* phase of the

³⁵ T. Risse & K. Sikkink, *op. cit.*, p. 11.

³⁶ *Ibidem.*

socialization process³⁸: it will help understand why recently, the use of dialogue as a “tool of foreign policy” or as “diplomacy” has been so much stressed in relation to China.

The first type of socialization that the authors identify, concerns the *instrumental adaptation* to domestic and international pressure. Governments accused of violating human rights norms adjust to pressures by making tactical concessions, which means that they do not necessarily believe in the norms and pursue primarily their instrumental and material interests. The authors argue that instrumental adaptation is a typical reaction of actors in *early* stages of the socialization process.³⁹

The second type of socialization process involves argumentative discourses in the Habermasian sense.⁴⁰ Socialization through moral discourse emphasizes processes of communication, argumentation, and persuasion. Actors accept norms in their language. As the authors suggest, however, we have to distinguish “moral discourse” from daily communicative practice.⁴¹ Whereas the latter is about exchanging information, “moral discourse” is about challenging the validity claims entailed in the exchanged “information” (in this case, actors might agree on the moral validity of the norm, but disagree whether certain behaviour is covered by it => what is covered by the “right to life” in China) or challenging the validity claims of the norm itself (one argues that human rights are universal, but we think that our culture and way of life are alien to these individualistic norms => Asian values).⁴² This is because moral discourse does not resemble “ideal-speech” situations in the Habermasian sense. In real-life power, hierarchies, as well as other factors play also a crucial role.⁴³

Thus, the socialization processes start when actors adapt their behaviour to norms for initially instrumental reasons i.e. not to lose power. The more they “talk the talk”, the more they entrap themselves in a moral discourse from which they

³⁷ *Ibidem.*

³⁸ *Ibidem.*

³⁹ *Ibidem.*

⁴⁰ *Ibidem*, p. 13.

⁴¹ *Ibidem.*

⁴² *Ibidem.*

cannot escape. Indeed, the authors argue: “They become entangled in arguments and the logic of argumentative rationality slowly takes over. It follows that we expect argumentative rationality, dialogue, and processes of persuasion to prevail in later stages of the socialization process.”⁴⁴

As far as the PRC is concerned, by the very fact that today international society “mode of interaction” with it combines primarily processes of shame and dialogue, for instance, allows us to place the country in later stages of the socialization process, hence conclude that from 1989 until today the PRC has certainly improved in terms of human rights behaviour.

The third type of socialization process is the institutionalization of international human rights norms. As Risse and Sikkink argue “Argumentative processes are still not sufficient in order to socialize states into norm-abiding practices. Human rights norms can only be regarded as internalized in domestic practices, when actors comply with them *irrespective* of individual beliefs about their validity.”⁴⁵ From rhetoric, states switch to dialogue with their opponents and what then happens is that “the more they accept the validity of the norms, and the more they engage in a dialogue implementation, the more they are likely to institutionalize human rights in domestic practices”.⁴⁶ At the end of the process norms become “the normal thing to do”, they are “taken for granted” what lead Risse and Sikkink to say that “this type of internalization process can be conceptualized as independent from changes in individual belief systems.”⁴⁷

1.4.3. The “Spiral Model” of Human Rights Change

As we have seen in the section above, there are three ideal types of social interaction: instrumental adaptation, argumentative discourse, and institutionalization.

⁴³ *Ibidem*, p. 14.

⁴⁴ *Ibidem*, p. 16.

⁴⁵ *Ibidem*, pp. 16-17.

⁴⁶ *Ibidem*, p. 17.

⁴⁷ Thomas Risse & Stephen C. Ropp, *International human rights norms: conclusions*, in Thomas Risse, Stephen C. Ropp, Kathryn Sikkink (eds.), *op. cit.*, 1999, p. 239.

To guide empirical analyses of this conceptual framework, the authors have developed a five-phase “spiral model” of human rights change.⁴⁸

The “spiral model” is a causal model that attempts to explain the variation in the extent to which national governments move along the path toward improvement of human rights conditions.⁴⁹

The authors do not assume evolutionary progress toward norm implementation, but claim to explain variation and lack of progress. They develop hypotheses about the conditions under which they expect movement from one phase of the model to the next.

The five phases are distinguished by the dominant response from the norm-violating state:

- Repression

The starting point is a situation of repression in a given state the “target” where the opposition is too weak to challenge the regime, and may lead to the “activation” of a transnational network of advocates if information about the state situation is gathered through some minimal links with the weak opposition.⁵⁰

- Denial

This phase puts the norm-violating state on the international agenda. Once information about human rights practices in the target state is collected, the transnational network starts “lobbying” international human rights organizations and Western states. This lobbying involves discursive activities in terms of moral persuasion toward Western states and “shaming” toward the target state.

“The initial reaction of the norm-violating state is almost always one of denial [meaning] that the norm-violating government refuses to accept the validity of international human rights norms themselves and it opposes the suggestion that its national practices [...] are subject to international jurisdiction.”⁵¹

⁴⁸ See Annex for the map of the “spiral model”.

⁴⁹ *Ibidem*, p. 18.

⁵⁰ *Ibidem*, p. 22.

⁵¹ *Ibidem*, p. 23.

- Tactical concessions

If pressure continues, the repressive government seeks “cosmetic gestures” or “tactical concessions” to pacify international criticism. In this phase the repressive government may temporarily improve the situation but almost only for instrumental reasons like “[using] concessions to regain military or economic assistance or to lessen international isolation”.⁵²

As the authors state, however, “tactical concessions can lead repressive governments down a slippery slope towards genuine reform.”⁵³ In order to avoid hypocrisy, the repressive regime starts “talking the human rights talk” and seeks justifications for its own behaviour. The regime may then become “entrapped” in its own rhetoric and “trapped into complying more fully with the assurances it offered than it initially expected, leading it to make more concessions than it expected to make.”⁵⁴

- Prescriptive status

As a consequence of “self-entrapment”, a repressive government may find itself referring to international human rights norms when judging its own behaviour and the behaviour of other governments.⁵⁵ Even though the “prescriptive status” reached by international human rights norms in the target state may not reflect its deeds, “the government may slide into compliance because it has unwittingly allowed its legitimacy to be tied to standards which it reinforces by its own public statements and commitments”.⁵⁶

- Rule-consistent behaviour

In this phase the government accepts the validity of the international human rights norms and exhibits what the authors call a rule-consistent behaviour. Violations might occur, but the government is committed to institutionalizing human

⁵² *Ibidem*, p. 25.

⁵³ *Ibidem*, p. 26.

⁵⁴ Alan M. Wachman, *op. cit.*, p. 263.

⁵⁵ T. Risse & K. Sikkink, *op. cit.*, p. 29.

⁵⁶ *Ibidem*.



rights norms and “norm compliance becomes a habitual practice of actors and is enforced by the rule of law”.⁵⁷

1.4.4. Our Empirical Framework: the “Nasty” Case of China

The study of T. Risse and K. Sikkink did not consider the PRC as a case. About the applicability of the “spiral model”, however, the authors argue: “Our most important finding is that socialization processes are effective across a strikingly diverse range of regions, countries, socio-economic systems, cultures and different types of political regimes. The socialization processes captured by the spiral model are truly universal and generalizable across regions and domestic structures.”⁵⁸

In an article by Alan M. Wachman indeed, the author applies the model to the PRC, and concludes that the socialization of international human rights norms into Chinese domestic practices is stuck at the third phase of the spiral model thus demonstrating that progress toward improved human rights in the PRC has ‘stalled’.⁵⁹ Wachman’s most illuminating conclusion for our study concerns the “mode of interaction” between the international society and the PRC. The author argues that the use of shame as a mode of interaction has turned out to be rather counterproductive, and suggests that precisely the use of shame could be the major cause of the stagnation occurring in China’s socialization process towards international human rights norms.⁶⁰

According to Wachman, China entered the “repression phase” that begins Risse and Sikkink’s spiral model of human rights change, with the 4th June 1989 massacre on Tiananmen.⁶¹ The UN Human Rights Committee criticized, for the first time, a permanent member of the UN Security Council. The focus of the “global human rights polity” as a whole, including international organizations, international

⁵⁷ *Ibidem*, pp. 32-33.

⁵⁸ T. Risse and K. Sikkink, *op.cit.*, p. 238.

⁵⁹ Alan M. Wachman, *op. cit.*, p. 263.

⁶⁰ *Ibidem*, p. 277.

⁶¹ *Ibidem*, pp. 266-267.

and national non-governmental organizations and Western powers, on the PRC's human rights situation made it something of an international pariah and forcing it, for a time, into a defensive posture.⁶²

After the events in Tiananmen, the PRC behaved consistently with what the Risse and Sikkink's model defines as "denial". Beijing dismissed international accusations and asserted that the criticism of it was an "illegitimate intervention in the internal affairs" of the PRC. To parry the arguments of foreign critics, however, the PRC started to discuss human rights.⁶³ "Talking the human rights talk", the PRC moved from instrumental adaptation typical of the early stages of the socialization process toward argumentative rationality. With the *White Papers*, the PRC started engage in a "moral discourse" challenging the universality claims of human rights norms. According to Wachman, in its *White Papers*, Beijing did not react in shame.⁶⁴ Showing defiance and consistency in its argumentation, it rather explained what the PRC had done to improve in terms of human rights and also attempted to clarify its stance on the question of human rights as following:

- Conditions were worse in China before 1949 than since.
- The PRC is a developing country and must cultivate human rights in a way that is compatible with its culture and conditions.
- The PRC emphasizes the right to subsistence and development as the foundations of civil and political rights.
- Legal institutions exist to safeguard civil and political rights, but the rights of the majority should not be undermined by the claims of a minority.
- The PRC does respect universal human rights, but believes those rights must be determined in a co-operative manner with other states, not imposed by others.

⁶² *Ibidem*, p. 267.

⁶³ *Ibidem*.

⁶⁴ The first white paper has been published by the Information Office of the State Council in 1991. Since then four other white papers have been published. See <http://www.china-embassy.org>.

- Western states have tried to usurp the issue of human rights to use it as a political lever against developing states, interfering in their internal affairs in a cultural hegemonic fashion.⁶⁵

While accepting the concept of universality, the PRC made clear that it rejects the “West” to impose its own and single definition of human rights. It claimed universality while demanding freedom of standards determined by others.

According to Marina Svensson, Asian challenge toward universality of human rights gained momentum in March 1993 during the Bangkok conference on human rights.⁶⁶ Several Asian countries, notably China, Indonesia, Singapore and Malaysia, launched an attack on human rights in the Western sense, their main argument being that the idea of human rights had been imposed by the West without taking into account Asian cultural and historical context.⁶⁷ They assumed the universality of human rights while stressing that “they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.” From there, those countries tried to launch an “Asian concept of human rights” based on what have been called “Asian values”: the primacy of the community over the individual, the priority of economic and social rights over civil and political rights.

As M. Svensson has objected, however, “the debate on an Asian versus a Western concept of human rights seems to have been initiated, and is dominated by regimes in the area, rather than reflecting a general concern among the people themselves.”⁶⁸ The author argues in fact, that Asia is not a homogenous entity and as such embraces diverse tradition thus, in her view, the “Asian values” argument “should be regarded more as a way for these regimes to defend their own political status quo than reflecting a genuine concern about Asian culture.”⁶⁹

⁶⁵ Alan M. Wachman, *op. cit.*, pp. 268-269.

⁶⁶ Marina Svensson, *The Chinese Strategy On Human Rights: Co-option, Dialogue and Repression*, in H. Thelle (ed.), *op. cit.*, p. 42.

⁶⁷ *Ibidem*, p. 43.

⁶⁸ *Ibidem*.

⁶⁹ *Ibidem*, p. 44.

Although Asian values might have been a political “invention”, what is most relevant for our further purpose is first, that “Asian values” seems more the product of indignation and a strong sense of superiority rather than shame, and secondly, that the PRC started by then, its “argumentative discourse” with the West which, as I shall argue later on, has evolved in two sub-discourses or one schizophrenic discourse: with INGOs and multilateral settings at the UN on one hand and with Western powers on the others.

Through the years, Beijing has also used “cosmetic gestures” or “tactical concessions” to impress foreigners. In the case of the PRC, those gestures are so scattered through the years that it is rather difficult to determine one “tactical concessions phase” as such. Moreover, as Risse and Sikkink’s argue: “Ratification of this or that international human rights agreement may constitute a tactical concession rather than full acceptance of its precise normative content.”⁷⁰

Marina Svensson claims, indeed, “the Chinese regime used certain well-known political prisoners as bargaining chips to be released at crucial moments and before important meetings, examples include MFN, the Olympics, and the UN etc.”⁷¹ One of the most striking examples is the one related to Wei Jingsheng, who was first released in 1993, when the International Olympic Committee was preparing to decide which city would host the 2000 Summer Olympics and then, rearrested again after the PRC realized it had failed to obtain the approval it sought.⁷² Once more the effort to shame China to bring it into compliance merely showed the arbitrariness with which a regime can release individuals to preserve other interests or achieve other aims and the failure to cause systemic changes.⁷³

According to Nathan, on the contrary, external pressure has been effective in the PRC. He rejects the idea that the PRC is not susceptible to pressure from abroad because it must preserve “face”. The author argues that through shame the PRC has accepted that human rights are part of the international arena and has become part of the international society.

⁷⁰ *Ibidem*, p. 248.

⁷¹ *Ibidem*, p. 54.

⁷² *Ibidem*, p. 52. See also, Alan M. Wachman, *op. cit.*, p. 272.

⁷³ Alan M. Wachman, *op. cit.*, p. 273.

As Wachman points out, however, one should see if such improvements in human rights came at a cost, a cost that he has identified through the PRC's reactions to criticism all along the path of the spiral model of human rights change: defiance and nationalism.⁷⁴ Wachman seems very concerned by this cost and argues that it has made the promotion of human rights now in China even more difficult to deal with than before.

"The reason why one needs to be concerned about the arousal of nationalistic defiance in response to foreign effort to shame the PRC is that the very foreignness of the effort may strengthen the arguments made in policy discussions to resist liberalization and expansion of rights. It may also diminish the authors of those would-be reformers in Beijing as well as in China's police substations, prisons or labor camps. In this way, what are well intended efforts, to shame in behalf of a moral objective may have counterproductive effects that actually impede those who might, otherwise, be able to take positive measure to improve human rights."⁷⁵

To conclude, if shaming simply arouses a sense of defiance and nationalism, it may be not as effective a mode of interacting with Beijing or pressuring Beijing.

1.5. Concluding Remarks.

Although China has improved some in terms of human rights behaviour it has not yet developed a "rule-consistent behaviour". Thus, measuring China's conduct in terms of human rights performance turns out to not only be of limited relevance but also gives rise to excessive scepticism and pessimism. The point is how can we expect the PRC to abide from norms violation hence, to make progress in terms of human rights performance if it has not reached the crucial level of socialization with international human rights norms? What is more important is to seek what could make the socialization process to international norms move the PRC further along the path of Risse and Sikkink's spiral model of human rights change. As Wachman suggests, efforts to shame the PRC at this point may only reinforce rigidities in the

⁷⁴ *Ibidem*, p. 276.

⁷⁵ *Ibidem*, p. 277.

leadership and raise the already strong nationalism among Chinese population as a whole. This is not to say that *all* pressure on the PRC should be avoided, but that shaming may not be productive in encouraging what is the very aim of promoting human rights: achieve systemic change, achieve democracy.

Thus, a question arises: if not shame, can dialogue promote human rights and achieve systemic changes in China? Can dialogue push China toward the next stages of the socialization process? Can dialogue alone do that or should dialogue be combined with other forms of pressure? What about an “all included dialogue” (a dialogue which also includes pressure)?

Continuing from Wachman’s conclusions, my purpose in the following chapter is to see if dialogue can guide China “a step further” toward the next stage, which is what T. Risse and K. Sikkink call “prescriptive status”. In other words, the author will try to determine if the use of the diplomacy of dialogue can be said to make the PRC progress in terms of human rights behaviour.



Chapter 2

Dialogue: *the* Human Rights-friendly Catalyst toward Human Rights Change

“In a way I think the process is more important than the results”

Wu Qing

2.1. Some Preliminary Remarks

So far, Risse and Sikkink’ spiral model has been very instructive for our study. Very illuminating is their claim that in the initial phases of their “spiral model”, actions of the norm-violating states can be explained by *instrumental reasons* (i.e. they want to stay in power, (re-) gain foreign aid etc., and, therefore, deny the validity of the norms and /or make tactical concessions), toward later stages of the socialization process, *argumentative rationality* takes over: governments under transnational and domestic pressure for change are increasingly forced to argue with the opposition and to enter into a true dialogue.⁷⁶

Through the authors, we also learn that “dialogue” is first of all, a result of transnational and domestic pressure, secondly that dialogue is a “process” which starts with rhetoric and should become “true” during later stages (an aspect that is often forgotten in dialogue criticism) and thirdly, that processes of “shaming” and dialogue (i.e. argumentative rationality) are typical of the later stages of the socialization process, which suggests their compatibility.

Moreover, Wachman’s application of Risse and Sikkink’s model to the PRC shows first, that “Beijing has demonstrated a robust capacity to offer gesture of compliance while otherwise resisting pressure to reform”, and secondly, that shame

⁷⁶ T. Risse & K. Sikkink, *op. cit.*, p. 16.

as a mode of social interaction between the PRC and the international community has proved to be ineffective and also counterproductive in altering Beijing's behaviour.⁷⁷

Here some questions arise: what can we say about processes of dialogue? Can we prove dialogue to be effective or productive in altering Beijing behaviour? And if yes, *which* kind of behaviour?

Moving from the conclusions of Risse and Sikkink's about the socialization to international human rights norms and Wachman's observations on the diplomacy of shame toward the PRC, in the following chapter, the author shall first, introduce INGOs' critical approach to dialogue and discuss its limits. Secondly, the author shall investigate the concept of dialogue and two possible views of dialogue to counter the INGOs' point of view. Finally, it shall be argued that *some* bilateral dialogues on human rights can be assumed as successful *catalysts* toward human rights and political change in China.

2.2. Does Dialogue Lead to Progress?

2.2.1. No. On Dialogue Criticism.

Risse and Sikkink's spiral model shows that processes of dialogue increasingly intervene in later stages of the socialization process towards international human rights norms (i.e. "prescriptive status" and "rule-consistent behaviour"). Thus, the very appearance of processes of dialogue within the socialization process should testify to an improvement in terms of a given state's human rights behaviour. The engagement of the PRC in bilateral dialogues with some Western countries therefore as an alternative could be interpreted as a progress in terms of human rights behaviour hence, openness on the issue. As it has often been argued, however, dialogue as such "is not an end in itself", dialogue can also be "empty talk", and hence "dialogue must have substance to be meaningful".⁷⁸

⁷⁷ A. M. Wachman, *Does the diplomacy of shame promote human rights in China?*, in «Third World Quarterly», 2001, vol. 22, n. 2, p. 257.

⁷⁸ See *EU-China Summit: Dialogue must have substance to be meaningful* by Amnesty International as reproduced at <http://web.amnesty.org/library/print/ENGASA170651999>.

As has already been mentioned in the first chapter, after the 1989 massacre on Tiananmen Square, debate has been particularly heated over the way to deal with China. As Wachman's analysis shows, the main mode of interaction used by the international community toward China has been "shame".⁷⁹ Around 1997, however, while in the face of reports of extensive violations of human rights in China, human rights organizations (INGOs like Amnesty International, Human Rights Watch, etc.) and others insisted that a more critical approach should be adopted, the policy of many Western governments toward China shifted towards bilateral dialogues and cooperation programs.⁸⁰ As HRIC, some one or two years later claimed: "Whereas in the past such governments had generally addressed rights violations in China through a combination of diplomacy and public censure both on bilateral and multilateral level, now they are virtually unanimous in promoting the idea that the most effective way of improving Beijing's human rights practices is through 'engagement' and 'dialogue'".⁸¹

In Risse and Sikkink's theoretical framework, it could be said that what occurred was in fact, a split within the "global human rights polity" whereby IOs, INGOs and, dissidents became mainly interpreters of processes of "shaming" and Western governments engaged in processes of dialogue through bilateral dialogues and cooperation programs.⁸²

Moreover, human rights organizations' concern that such a dialogue could become a fig-leaf for economic and trade interests of governments and a way to escape multilateral action on China's rights abuses found expression in a harsh criticism of the dialogue itself.

Among the main critics and recommendations, most relevant were the following:⁸³

⁷⁹ A. M. Wachman, *op. cit.*, p. 257.

⁸⁰ See Rosemary Foot, *Rights Beyond Borders. The Global Community and the Struggle over Human Rights in China*, New York, Oxford University Press, 2002, pp. 190-223.

⁸¹ See *From Principle to Pragmatism: Can Dialogue improve China's Human Rights Situation?*, A Report by HRIC, June 1999, as reproduced at <http://www.HRICChina.org>.

⁸² See T. Risse & K. Sikkink, *op. cit.*, Figure 1.2: The "boomerang effect", p. 19.

⁸³ Dialogue criticism is shared by AI, HRIC and HRW in many reports and letters addressed to governments but mainly to the EU. See, among other listed in the bibliography, the following documents:

AI, *EU-China Summit: Dialogue must have substance to be meaningful*, at <http://web.amnesty.org> (23.02.2004).
AI, *Open Letter from Amnesty International to EU Governments Concerning the EU-China Human Rights Dialogue*, at <http://web.amnesty.org/library/print/ENGASA170392000> (23.02.2004).

- Dialogue is marked by a *lack of openness, public accountability, and benchmarks to measure progress*;
- Effective dialogue cannot be merely an empty exchange of stale speeches about “Western values” v. “Chinese values”;
- The value of dialogue can only be *measured over time in terms of concrete improvements for victims of human rights violations*. No such progress has been made in the dialogue with China .The human rights dialogue held by the EU and other governments with China has failed to bring any concrete improvements on the ground or progress in the area of China’s cooperation with the UN human rights mechanisms.
- Western leaders must press for *real* guarantees from Beijing on human rights issues and China must act now to improve the situation from the ground.
- Participants are *government representatives and others vested by governments*.
- *No time frame* for the achievement of these objectives.
- Conflict between international commitments made by the Chinese government and the promulgation of domestic law and its implementation.
- Chinese government wants “dialogue” with the West, but it is obviously less interested in dialogue with its own people.

The idea behind these criticisms is basically that dialogue *in theory* can improve progress but dialogue as realized *in practice* (institutionalized into bilateral dialogues) would hardly achieve that aim if not simultaneously backed by multilateral pressure. “Dialogue relies for its effectiveness on accompanying public

Free Tibet Campaign, HRIC, The International Campaign for Tibet, *Behind Closed Doors: Bilateral Dialogues on Human Rights*, at <http://www.tibet.org/itsn/campaigns/unhcr/dialogue.summary.html> (27.02.2004).

_____, *Bilateral Human Rights Dialogues with China – Summary and Recommendations*, at <http://www.tibet.org/itsn/campaigns/unhcr/dialogue.summary.html> (27.02.2004).

HRW, *EU-China Summit in Beijing Must Push on Human Rights*, at <http://www.hrw.org/press/1999/dec/china1221.htm> (23.02.2004).

_____, *China: EU Should Set Benchmarks in Rights Dialogue*, at <http://www.hrw.org/press/2003/11/chineau112503.htm> (23.02.2004).

pressure, both bilaterally and through the UN's mechanisms" was the recurrent claim among INGOs and similar organizations.⁸⁴

Moreover, according to HRIC, for dialogue to be "true", and to be realized in practice as it is in principle, it should meet the following criteria:⁸⁵

1. No compromises on human rights standards

Dialogue should be based on respect for existing human rights standards and monitoring system. False debate should be avoided. Dialogue should not be used to engage in empty talk about "cultural differences" and "priorities".

2. A clear substantive agenda

A clear agenda for substantive discussions should be prepared before each dialogue event. The focus should be achieving specific objectives as pushing for the release of prisoners or dissidents, improving prison conditions, etc.

3. Transparent and accountable process with independent participation

Transparency and accountability should be fundamental principles for all participants.

Only input and monitoring of a range of NGOs with different perspectives can assure them. Dialogue must include NGOs and human rights activists inside China. Partners should encourage the Chinese government to engage in dialogue also domestically.

4. Coordination between dialogue partners

To prevent duplication and waste of time and resources, partners should coordinate among themselves.

5. Part of an integrated strategy

⁸⁴ See *Open Letter from Amnesty International to EU governments concerning the EU-China Human Rights Dialogue* by Amnesty International, 26 September 2000, as reproduced at <http://web.amnesty.org/library/print/ENGASA170392000>.

⁸⁵ See *From Principle to Pragmatism: Can Dialogue improve China's Human Rights Situation?*, A Report by HRIC, June 1999, as reproduced at <http://www.HRICChina.org>, pp. 15-16.

Dialogue should be one of a package of measures. It must be coupled with pressure as raising rights violations in the UN Commission for Human Rights. Dialogue without pressure is nothing but appeasement and will only serve to degrade the authority of human rights standards.

The abovementioned claims, however, are based on the following false assumptions:

- a. The assumption that dialogue is only a “foreign policy tool”. The risk of defining dialogue as a “tool” is to forget about the dynamism and complexity implied in it. Dialogue is this plus something more. Risse and Sikkink talk about “processes of dialogue” to precisely stress the dynamism involved. Dialogue is first of all a dynamic and complex process that implies more than the simple exchange of information as in a moral discourse whereby one of the two participants challenges the other. How is this measured?
- b. The assumption that for dialogue to be “effective” and “productive” should produce “tangible results” like ratifications of international human rights treaties, and release of prisoners. As has already been pointed out in the former chapter, however, this kind of “results” can be interpreted just as much as “tactical concessions” rather than as manifestations of a substantive change.⁸⁶
- c. The assumption that the package “dialogue and cooperation” is *all in one*: whereas there are all sorts of dialogues and cooperation programs going on with China and at different levels (political, dialogue seminars, and cooperation programs). Can the same judgment be given to the US-China dialogue and the EU-China dialogue, for instance? And within one and the “same” dialogue can the same about the different levels be claimed?
- d. The assumption that there should be a correspondence between dialogue and the amount of human rights violations: “since the dialogue started – human rights organizations claim – the amount of human rights violations has raised instead of diminish”. As Liu Qing himself argues, however, looking at the amount of violations as such can be misleading then, states are likely to violate more when they are

actually losing power...⁸⁷ Moreover, it is often forgotten to ask whether the eight years of shaming yielded any good results!

e. The assumption that during dialogue sessions one can expect from the Chinese side what one can expect from a democratic country, i.e. the pluralist participation of independent groups, scholars and lawyers and other individuals (why not the Dalai Lama?), whereas this is precisely the point: China is not yet such a democratic country.

f. The assumption that the “dialogue and cooperation” package should address controversial abuses. Whereas China has expressly asked for dialogue to avoid confrontation, dialogue should be used thus to confront it; also, we have seen in the former chapter how the “finger-pointing” policy toward China has given “impressionistic” rather than substantive results.

g. The assumption that only dialogue can hide “other” interests, whereas pressure does not.

Basically, the understanding of “dialogue” can vary and the variation, moreover, is not simply between what dialogue is in principle and what “dialogue” becomes in practice (bilateral dialogues, in our study). There is a problem of fairness also. In my view, the understanding given by INGOs is not the fairest one.

According to HRIC “the success of dialogue relies upon greater openness on several levels – an openness in perspective that does not dominate discussion with preconceived views, an openness in participation which allows for the involvement of independent organizations and an openness in proceedings which grants free access to the content and progress of the exchange. True dialogue cannot be one-sided or exclusive; it should be a real exchange”.⁸⁸ It seems that everybody can agree on that. Nevertheless there are two objections. First, this view portrays dialogue as it should be in principle. As we shall see later, reality is more complex and dialogue involves many other factors, all playing a crucial role in this “exchange”. Not taking them into account is rather idealistic. Secondly, where is the “real exchange” if

⁸⁶ Risse and Sikkink, Wachman and others, all agree on this possible interpretation especially, as far as ratifications of international instruments is concerned.

⁸⁷ See Liu Qing, *op. cit.*, p. 438.

⁸⁸ See HRIC Report, June 1998, p. 45.

dialogue should address human rights violations and avoid compromises on human rights standards? If dialogue shall be a true exchange it by nature has to involve compromises and be non-confrontational. Dialogue, in those terms, sounds more like a “monologue” than a dialogue and this is why such an approach has deserved the attribute of “confrontational” from the Chinese side: you can say your piece but what about mine? Moreover, due to their problematic participation to dialogue meetings, human rights organizations have basically maintained the same view on the features of a dialogue with China.⁸⁹

Instead, through the shift to “quiet diplomacy”⁹⁰, which aims also to safeguard material interests, and the engagement in dialogue sessions with the PRC, *some* Western governments are experiencing all of the dilemmas implied by its practice. This includes the choice of being “constructive” and first of all, the dilemma of being *two* entities, which consequently may imply *x* different thoughts, *x* different perspectives on human rights, *x* ideologies, etc. The result has been a proliferation of human rights dialogues between experts and cooperation programs. With the objective of dealing with human rights issues at different levels (from the more theoretical to the more practical level), these dialogues have failed to be appreciated until now for what they are slowly but steadily achieving: mutual understanding hence, change in “human rights *cognitive* behaviour” which, in my view, is the most difficult “result” to reach.⁹¹

Achieving institutionalization and internalization of international human rights norms through processes of dialogue, indeed, proves to be far from, as Risse and Sikkink have theorized, “independent from individual beliefs about their validity.”⁹² Conceived as such, socialization puts norm-violating states in the position of merely *passive* agents, which they are not. In his study Wachman has clearly shown, how

⁸⁹ Participation of INGOs in bilateral dialogues has been rather problematic: when they were not invited to dialogue meetings, they claimed they had not been invited; when they were invited, hence would participate to the meetings, they would criticise dialogue in a confrontational manner, and sometimes would decide not to participate anymore. For an account of the participation of INGOs in bilateral dialogues with China, see HRIC Report, June 1998, pp. 17-45.

⁹⁰ The term, used by HRIC, refers to the mode of interaction between Western governments and China.

⁹¹ By the expression “human rights *cognitive* behaviour” I refer, and shall refer also further in this study, to a given country *status* of awareness or consciousness in human rights which, in my view, is more likely to precede what I consequently, shall call “human rights behaviour *in praxis*”.

⁹² See T. Risse & K. Sikkink, *op. cit.*, pp.16-17.

active and *creative* China is all along the “spiral” model path in her response to the international community’s diplomacy of “shame”.⁹³

Moreover, international human rights norms have been said to be about moral values which in their turn are shaped by such factors as one country’s own culture, traditions, stage of economic development, etc. whereby their *universality of validity* and *universality of scope* or *applicability* have been very much challenged during last decade by the Chinese, as well as by most Asian, Islamic and African countries.⁹⁴ The Bangkok Declaration holds that

“Asian governments recognize that while human rights are universal in nature, they must be considered in the context of a dynamic and evolving process of international norm-setting, bearing in mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.”⁹⁵

As Joseph Chan claims “it is not clear whether this argument merely qualifies or in effect denies the very idea of universality. In any case, if more weight is attached to particular considerations, the more likely is the universality of human rights to be stripped of its substantive content”.⁹⁶ Noting the danger, the Vienna Declaration categorically states that “the universal nature of [human] rights and freedoms is beyond question”. Whereby His Excellency Mr. Liu Huaqiu, head of the Chinese delegation, made the following statement to the U.N. World Conference on Human Rights:

“The concept of human rights is a product of historical development. It is closely associated with specific history, culture, and values of a particular country. Different historical development stages have different human rights requirements. Countries at different historical traditions and cultural backgrounds also have different understanding

⁹³ A. M. Wachman, *op. cit.*, pp. 265-277.

⁹⁴ For the notions of *universality of scope* or *applicability* and *universality of validity*, see George Ulrich, *Universal Human Rights: An Unfinished Project*, in Kirsten Hastrup (ed.), *Human Rights on Common Grounds. The Quest for Universality*, The Hague, 2001, pp. 198-201.

⁹⁵ Joseph Chan, *The Asian Challenge to Universal Human Rights Norms. A Philosophical Appraisal*, in James T.H. Tang, *Human Rights and International Relations in the Asia-Pacific Region*, London, Pinter, 1995, p. 25.

⁹⁶ *Ibidem*.

and practice of human rights standard and model of certain countries as the only proper ones and demand all countries to comply with them.”⁹⁷

A long story has begun, and as far as China is concerned, Western governments have become aware that whether they like it or not, the Chinese leaders, their representatives or professionals that they face during dialogue sessions, “*think in a certain way*”⁹⁸ or make as they would think in a certain way. In other words, Western governments have realized that the Chinese counterpart has its own perspective on human rights, and although they might have been motivated by other concerns than the promotion of human rights as such (i.e. material benefits), they courageously “faced” that perspective. Then, what purpose should processes of dialogue serve during socialization processes toward international human rights norms if not precisely the one of moving from challenges to mutual understanding, simultaneously dealing with all the different factors that inevitably shape the dialogue?

2.2.2. What is Dialogue and What For?

According to Risse and Sikkink, at the end of the socialization process to international human rights norms, actors follow the norm, because “it is the normal thing to do”...⁹⁹ But what purpose has then, dialogue served? Can a process whereby a state *passively* intakes norms be called “dialogue”? Should not dialogue by its very meaning imply that all sides involved have a say? And what can be said to be “the normal thing to do”? In order to illustrate it, authors raise the following example: “When we stop at a red traffic light, we usually do not question the normative implications of the rule we are just following.”¹⁰⁰ But this is not what happens in China. In China, nobody questions the normative implications either; however, the red light gives out different interpretations depending on the situation: go to Beijing and see!

⁹⁷ Liu Huaqiu’s statement is quoted in Stephen C. Angle, *Human Rights and Chinese Thought. A Cross-Cultural Inquiry*, Cambridge, Cambridge University Press, 2002, p. 1.

⁹⁸ See Dingding Chen, *Understanding China’s Human Rights Policy: The Limits of International Norms*, as reproduced at <http://cosa.uchicago.edu/dingdingchen3.htm>.

⁹⁹ See T. Risse & K. Sikkink, *op. cit.*, p. 17.

Chinese scholar Dingding Chen claims that current works on international norms “tend to overlook the cultural and historical context within which socialization takes place.”¹⁰¹ Dingding Chen does not see states as passive students, “especially not powerful states like China.”¹⁰² On the contrary, he considers them as “active agents”.¹⁰³ He argues: “[Both] ‘teaching’ and ‘persuasion’ by transnational actors are surely important mechanisms, but they cannot tell the whole story. States are not *passive* students; they can be *creative*.”¹⁰⁴ Moreover, he claims that “socialization with international community, transnational advocacy networks and dialogues with other actors will be unlikely to bring about substantial changes if they are not compatible with existing domestic normative structures that are so deeply embedded in the minds of the Chinese leadership.”¹⁰⁵ What is suggested is that, dialogue, which apparently is the best way to promote human rights, can totally fail its mission of changing human rights “bad” practices if it fails to first, reach a *cross-cultural understanding* on human rights norms.

According to Trevor Taylor, the expression “critical dialogue” suggests a discussion between two or more identities in which each presents its own positions”.¹⁰⁶ Implicit in the terminology, moreover, there are two other points. The first is that the exchange is taking place between two entities without one side having a presumed stronger position or superior standing: thus in an EU-China case, for instance, China and the EU, would enjoy the same status, they would be partners.¹⁰⁷ The second is that dialogue does not imply any missionary or messianic activity and thus does not appear a threat to either party: the dialogue should not lead to the reluctant conversion of one to the views of the other, in other words, not to a Westernization of China, for instance, in the abovementioned case.¹⁰⁸

As far as the purposes are concerned, Taylor confirms Risse and Sikkink’s view that the eventual aim of a critical dialogue is “changed behaviour” on the part

¹⁰⁰ *Ibidem*.

¹⁰¹ See Dingding Chen, *op. cit.*, p. 9.

¹⁰² *Ibidem*.

¹⁰³ *Ibidem*.

¹⁰⁴ *Ibidem*.

¹⁰⁵ *Ibidem*, pp. 9-10.

¹⁰⁶ Trevor Taylor, *The Critical Dialogue Reconsidered*, in Sven Behrendt, C.P. Hanelt, *Bound to Cooperate*, Gütersloh, Bertelsmann Foundation Publisher, 2000, p. 246.

¹⁰⁷ *Ibidem*.

¹⁰⁸ *Ibidem*.

of the norm-violating state but that “an initial target toward that aim is improving mutual understanding.”¹⁰⁹ Moreover, he argues:

“Certainly better understanding can improve human rights relations. People and governments which do not know each other can fear the worst of each other. They can misunderstand or simply not know what the other is trying to achieve, what its fears are and so on. Continued contact prevents the dehumanization of opponents, and the exchange of information and views provides a framework for empathy.”¹¹⁰

Furthermore, about dialogue in its essence, Taylor suggests two competing views. In one view, dialogue is a tool of foreign policy which aim is essentially about securing “desired behaviour on the part of the target state”. As such it counts as one among many others tools (sanctions, foreign aid, etc.) or, in Risse and Sikkink’s framework, one among “a variety of techniques to persuade”.¹¹¹

In the second view, critical dialogue becomes an aspect of diplomacy, part of the mediating element (diplomacy) between a range of foreign policy tools and the target state. “Diplomacy involves direct, government to government interaction, acting on the people in other governments who are able to do things we want their state to do.”¹¹² In this new framework, dialogue is a “special” technique to persuade.

As we shall see later, this latter view of “critical dialogue” has implications for our study. If dialogue is about diplomacy, its *features* toward mutual understanding may not correspond to the features of an ideal-speech toward the same aim. This is to say that, mutual understanding with an *authoritarian* country as China, for instance, may be difficult and implying challenges. It may be impossible to reach especially if the dialogue has to follow criteria as the ones proposed by INGOs and finally, very complex if crucial factors as divergences in political ideologies come into play. As Taylor confirms:

“Mutual, accurate understanding is more difficult if the two have two different ideologies. Of necessity, people view the world through some sort of ideological lens which

¹⁰⁹ *Ibidem*, p. 247

¹¹⁰ *Ibidem*.

¹¹¹ *Ibidem*, p. 248. See also T. Risse & K. Sikkink, *op. cit.*, p. 14.

¹¹² Trevor Taylor, *op. cit.*, pp. 246-247.



can generate important distortion and full, careful and frank exchanges can help to clarify what the different parties are really about.[...] When ideologies guidance is rather inflexible, the distortion provided by the ideological lens be considerable.”¹¹³

My argument is that the lack of dialogue “tangible results” in terms of China human rights behaviour *in praxis* (i.e. less violations) on which INGOs and others focus their criticism is founded on the belief that a true dialogue should merely serve implementation of norms, or better pre-existing universal norms, the role of Western governments and other institutions consisting then, in *pushing* China toward that aim.

Such a view ignores the abovementioned complexity of Western governments’ task due to the interplay of several factors, the politicization of culture, which is likely to occur whenever a country places national sovereignty above every other value, even above the so called *de facto consensus*, certainly being the most blocking one.¹¹⁴ Moreover, it is my view that also Western participants were not prepared for the abovementioned dilemmas when they began engaging in bilateral dialogues with their Chinese counterpart. They nevertheless, are going through the whole process and, as shall be seen later, sometimes they can be rather successful.

2.2.3. Understanding *How*, *What*, and *Whom*

2.2.3.1. Understanding *How* and *What*

According to Taylor, “if mutual understanding is to be achieved, it is necessary that the agenda of the dialogue concern profound subjects including the world views (*Weltanschauung*) and ideologies (i.e. *what*) of the participants”.¹¹⁵ Furthermore, as far as the content is concerned, Taylor adds that “it is necessary to consider the

¹¹³ *Ibidem*, p. 247.

¹¹⁴ According to Michael G. Barnhart, the idea of consensus must be distinguished from the fact of consensus. He argues: “Since the 1948 Universal Declaration of Human Rights there has been a *de facto* consensus regarding human rights which has been subsequently expanded on to the point where various generations of rights [...] are now internationally recognized. [However,] the fact of consensus is one thing. The desirability of consensus is another. [...] If [*de facto* consensus] is a forced consensus, it is no consensus at all.” For this quotation, see M. G. Barnhart, *Getting Beyond Cross-Talk*, in Lynda S. Bell, Andrew J. Nathan & Ilan Peleg (eds.), *Negotiating Culture and Human Rights*, New York, Columbia University Press, 2001, p. 48.

¹¹⁵ Trevor Taylor, *op. cit.*, p. 249.

whole basis and coverage of human rights and not merely address human rights violations.”¹¹⁶

However, without any guidelines concerning an eventual approach to those world views, ideologies and human rights norms we would not go very far. Such an approximate approach whereby to reach mutual understanding we should exchange our world views ideologies, and perspectives on human rights broaches the classical risk of falling into dichotomies such as East-West cultures, which leads nowhere but toward a big “clash” between opponents *à la* Huntington. Moreover, such an approach would reconfirm INGOs in their criticism about dialogue as a mere “West universalism v. Chinese relativism empty talk”. So, if it is about seeking a more substantial mutual understanding, what is needed is an *interpretive* approach (i.e. *how*).¹¹⁷

Certainly, it is always good and practical to be aware about “the other” that one is facing. From our “Western” side now, it is very useful and beautiful to know about Chinese language and Chinese culture, marvellous to manage also talking and understanding the language but it is even better if we can manage to consider both language and culture as “open sets”. An anecdote to clarify this point: During my Chinese Language and Culture studies, I was always told that the Chinese word “*tongzhi*” (comrade) was “for Chinese people only” so that, for instance, I as a Westerner should not employ this word to talk to a Chinese person. As usual I would do exactly the contrary of what I had been told to do, and one day in 1994, in Beijing, I suddenly called a man “*Tongzhi!*” to ask for information. The man just smiled but did not add any special comment. One day in 2003, stepping out of a taxi in Beijing, I said to the taxi driver: “*Zaijian, tongzhi!*” (Good bye, comrade!). He answered: “*Xiaojie, ni de zhongwen tuixiu le!*” (Miss, your Chinese language has retired!) meaning that, my Chinese language was not up to date. Moreover, recently, I have been told the word is now used for homosexuals...

In sum, what can be said to be Chinese language, Chinese culture and Chinese politics and *vice versa*? That is to say that the better approach to all those entities,

¹¹⁶ *Ibidem*.

¹¹⁷ Here the term “interpretive” means that dialogue partners should think about all possible interpretations of the messages they exchange, hence their guiding reciprocal question should be “What does he (i.e. “the other”) mean exactly and why?”.

politics included, should be as “interpretive” as possible. In this approach entities are dynamic hence culture, for instance, is not assumed as a rigid set of values but as an open, dynamic set. The advantage of this approach is that claims as, for instance, “Asian values” can become rather suspect, as far as culture in a narrow sense is concerned, but at the same time very interesting to analyze in their political implications. In other words, such an approach entails the main advantage of revealing *the impact of ideologies on world views* or the politicization/manipulation of culture, whereby it becomes easier for dialogue partners to reciprocally read their intentions.

As we shall see later, within the EU-China dialogue on Human Rights, there are certain levels where the experts involved prove to be very conscious of the abovementioned aspects and whereby their work becomes not the easiest one from an interdisciplinary as well as from an “interpretive” point of view. These aspects shall be revisited in the next chapter.

2.2.3.2. Understanding *Whom* and *Who's* Perspective on Human Rights

Although Taylor acknowledges that “dialogue between some groups may be more effective and open than between others”, the author argues that dialogue, to be deep, should involve many politically-relevant groups because “a policy of dialogue is unlikely to be effective unless it includes a clear view of the broad range of groups which need to be brought.”¹¹⁸ So, directors of dialogue need to take account also of the potential role to be played by non-governmental personnel such as academics, business people, and environmental lobbyist and so on.¹¹⁹ What about the composition “no dissidents, no Dalai Lama hence no sorrow” of the Chinese side in “dialogue and cooperation packages”? They all are simply out of the picture... According to Marina Svensson “when confronted with the argument that what we outsiders consider to be human rights violations are not considered as such by a specific culture, or that Asians do not share our understanding of human rights, we must always ask ourselves if that really is the case or if there does not exist an

¹¹⁸ As I shall argue later, this is precisely the case of the EU-China dialogue among experts if compared with the more formal EU-China dialogue at the political level. See Trevor Taylor, *op. cit.*, pp. 249-250.

¹¹⁹ *Ibidem*, p. 250.

internal critique as well".¹²⁰ This suggests that, dialogue should involve all voices thus take into consideration all the different perspectives on human rights. Thus, in the specific case of China, dissidents as Wei Jingsheng Wang Dan, and Liu Qing who also embody a "Chinese perspective" on human rights which, however, does not correspond to the "official" one, should also be taken into consideration.

So far, Taylor's conceptualization of critical dialogue thus suggests that the EU efforts with regard to China, for instance, are not on a broad or deep enough front: no dissidents, no Dalai Lama hence no other perspective in the game than the "official" one. Harsh dialogue criticism seems then, more than justified.

On the other hand, however, by qualifying dialogue as "an enhanced form of diplomacy" and adding that "variants on it can be found", Taylor justifies the EU-China dialogue as *in praxis*. Then, diplomacy by its very meaning implies "variations" on the theme. In other words, here lies the gap between the dialogue in theory and the dialogue in practice and the difference between the two competing views of dialogue as a pure "foreign policy tool" on the one hand, and as diplomacy on the other.

As some scholars have pointed out, indeed "the character of the political system in China necessitates strong government support for human rights engagements".¹²¹ This is to say that, given the authoritarian system in China, in settings such as the EU-China dialogue on human rights, one may not have many other choices than *having to* deal with Chinese government officials or representatives.¹²² Certainly, this should not be an alibi to ignore the others and their perspectives. *A contrario*. As a matter of fact, however, these Chinese "alternative" perspectives are sustained by a rather weak opposition in the country. As Liu Qing argues the event in 1989 on Tiananmen and the crazy fast economic growth experienced during last decade in China hence better life and living conditions, have acted as a cold shower on Chinese people motivation to struggle for human rights and democracy.¹²³ In such a framework thus, it becomes quite clear why, while

¹²⁰ Marina Svensson, *The Chinese strategy on human rights: co-option, dialogue and repression*, in H. Thelle (ed.), *op. cit.*, p. 45.

¹²¹ Interview with Lone Lindholt, (DIHR).

¹²² Emphasis added.

¹²³ See Liu Qing, *op. cit.*, pp. 439-440.

acknowledging all those different Chinese perspectives, Western governments and the like have nevertheless, found themselves entrapped in a more or less “Chinese state-led dialogue”.

As will be suggested later, however, *some* of the bilateral dialogues with China have evolved by time, and have created “a space” for that initial target of mutual understanding which, for the reasons we have enlightened above, has by time revealed to be a very complex and time demanding task. Furthermore, it shall be argued that the progress achieved by those dialogues consists precisely in the tabling of mutual understanding which in its turn embodies a necessary precondition and condition for progress toward the PRC’s change in behaviour *in praxis*.

2.2.4. Dialogue Can Lead to Progress or...on Dialogue’s “Tangible Results”: Some Cases of a Better Mutual Understanding hence Changes in China Human Rights *Cognitive* Behaviour

Although all bilateral dialogues with China can be qualified as having a common “obscure” origin, whereby some have argued, and not without any reason, that these dialogues have been principally conceived to avoid other “dangerous” avenues which could have compromised the fruitful trade and economic relations with China, the author hereby, takes the opportunity to join Morten Kjaerum in his belief that “*some* of them have opened up a space”¹²⁴ whereby it is possible to achieve what is conceived as being the most important result in terms of human rights change in China: the cognitive result.

This suggests a need to distinguish not only between the numerous bilateral dialogues that China holds with other countries, but also to distinguish between the different levels within one and the same “dialogue and cooperation package” with one and the same country.

¹²⁴ Interview with Morten Kjaerum, Director of the DIHR.

2.2.4.1. The Case of the EU-China Dialogue on Human Rights and its Ramifications

As it derives from the first Commission communication, the dialogue on human rights was set up on the Chinese initiative in 1995.¹²⁵ It was interrupted for one year, then restarted again in 1997 and since has been held on a regular basis.¹²⁶ Numerous statements of the European Council support the assumption that dialogue became the concession for not tabling a resolution at the U.N. Commission for Human Rights after 1997: China asked for dialogue to frustrate the resolution. A direct link between the dialogue and the potential resolution in Geneva is thus confirmed by the EU itself.¹²⁷ Moreover, in its 1998 communication, the Commission stated that “the resumption of the EU-China human rights dialogue without any pre-conditions [...] remains *the most appropriate means* of contributing to human rights in China” thus implying that other avenues such as resolutions in Geneva or the setting-up of conditionality are out of the picture.¹²⁸

As we have already evidenced in the first chapter, many sources testify lack of transparency surrounding both the content and the motives for such a dialogue. Amnesty International, after participating in some of the sessions, refused the EU invitation to continue, the justification being the following:

“[Amnesty] has never been opposed to dialogue with China. The organization has for many years pursued any opportunity to raise its concerns with relevant Chinese officials as it does with relevant Chinese officials; as it does with governments world-wide. On this basis, Amnesty International has itself been prepared to participate in good faith in some dialogue sessions. However, the organization has become progressively disenchanted with the process, with the continuing lack of transparency and limits of participation, circular argumentation, indications of a lack of serious intent, and fundamentally the lack of concrete improvements in human rights. A willingness on the part of Chinese officials to speak on a limited range of human rights issues, behind closed doors, to a carefully vetted foreign audience cannot be deemed progress when outside, Chinese, citizens who discuss

¹²⁵ European Commission, *Building a comprehensive partnership with China*, Brussels, 25 March 1998. See also Elena Fierro, *Conditionality in Relation to Third (non-European) Countries*, in E. Fierro, *The EU's Approach to Human Rights Conditionality in Practice*, The Hague, Martinus Nijhoff, 2002, p. 201.

¹²⁶ See E. Fierro, *op. cit.*, 2002, p. 201.

¹²⁷ *Ibidem*.

¹²⁸ European Commission communication 1998.

similar issues, who attempt to provide UN mechanisms and foreign observers with information on human rights violations, or who attempt to organize around their concerns are increasingly being harassed and imprisoned". Moreover, "Amnesty believes human rights dialogue is a means to an end, but is corrupted when it becomes an end in itself. Amnesty recognizes that engagement with China is a long-term process and that dialogue cannot be expected to produce major changes overnight. But the potential of dialogue to produce results over time will be fatally compromised unless a line is drawn on fundamental issues from the very beginning..."¹²⁹

According to the same and similar sources, while facing dialogue lack of "tangible results", the Commission developed the idea of holding bilateral thematic seminars on legal and judicial co-operation, which resulted in the first seminar being held in Beijing in February 1998. M. Kjaerum writes: "The initiative to establish experts meetings came from the political dialogue. A need was expressed to further develop some of the issues discussed in the political realm of EU and Chinese relations."¹³⁰

Whatever were the true motives underlying the institutionalization of thematic seminars, according to some participants of both Western and Chinese sides, the holding of these experts' seminars is proving to be "productive" and the productiveness seems very much to spread from *how* i.e. "quiet diplomacy" (the kind of diplomacy some are likely to ironize about) the work is conducted.¹³¹

First, if compared with the political dialogue the composition is more decentralized, and wider. It involves different groups. At the recent Venice's session on "Capacity building of NGOs", Chinese NGOs were present.¹³² Although these organizations are certainly part of what Frolic defines as "state-led civil society", as a matter of fact, they also enjoy a certain margin of autonomy from the state.¹³³ T. Gold, who also perceives a certain controversy surrounding the applicability of the term "civil society" as such to contemporary China, prefers the expression "bases for

¹²⁹ Europe of 8 February 1999 as reported in E. Fierro, *op. cit.*, p. 203.

¹³⁰ Morten Kjaerum, *EU, China and Human Rights: Main Themes and Challenges*, in Merja Pentikäinen (ed.), *EU-China Dialogue: Perspectives on Human Rights – with special reference to women*, Rovaniemi, University of Lapland, 2000, pp. 3-4.

¹³¹ Interviews with participants from both sides.

¹³² The author was sitting there as observer.

¹³³ See B. Michael Frolic, *Reflections on Civil Society and Human Rights*, in E. P. Mendes & A. Lalonde-Roussy (eds.), *Bridging the Global Divide on Human Rights. A Canada-China Dialogue*, Aldershot, Hampshire, Ashgate Publishing Company, 2004, pp. 23-25.

civil society” or “potential bases for civil society” to label those “elements in China which [he believes], in particular circumstances, [...] could either free themselves from direct party control or establish themselves outside party leadership, in order to manage their own affairs and, in time, gain the legitimacy and protection of the state.”¹³⁴

Secondly, this dialogue is politically less sensitive and consequently confidence arises between the parties.¹³⁵ In a seminar devoted to death penalty, some Chinese experts declared themselves abolitionists...¹³⁶ A very interesting account in terms of “intercultural or cross-cultural understanding” through dialogue is given in a contribution about the same meeting on death penalty by M. Kjaerum. It goes as follows:

“In relation to death penalty [during the meeting] a central place was given to the debate about cultural heritage in which the death penalty has been seen as a legitimate penal sanction. Chinese official policy holds that the death penalty is still necessary in China to protect public safety. This stands in opposition to the developments in key human rights fora like the UN Human Rights Commission and developments in Europe which condemn the use of capital punishment. However, there are groups in Europe who work for the reintroduction of the death penalty. On a more substantive level than this “for-against” debate is the issue of limiting the use of the death penalty to a few well-defined most serious crimes as offering a potential improvement. Furthermore, the criminal procedures in trials where the death penalty exists as a possible punishment should in particular be fair and unambiguous. Finally, issues regarding broad based human rights education were raised in order to create a popular understanding for the abolishment of the death penalty.”

137

In sum, seminars between experts clearly are a more relaxed environment in which both parties can learn about each other and from each other. As a Chinese

¹³⁴ See Thomas Gold, Bases for Civil Society in Reform China, in K.E. Brødsgaard, D. Strand (eds.), *Reconstructing Twentieth- Century China: State Control, Civil Society, and National Identity*, New York, Oxford University Press, 1998, p. 170.

The elements which the author identifies as “potential bases for civil society” in China are the following: enterprises, units (*danwei*), professional and occupational associations, intellectuals, mass associations, religion, secret societies and criminal networks, clans and *guangxi* networks, social movements, media, non-governmental organizations, and Chinese abroad.

¹³⁵ Interview with Morten Kjaerum.

¹³⁶ *Ibidem*.

¹³⁷ See Morten Kjaerum, *op. cit.*, pp. 5-6.

participant has confirmed “During EU-China human rights experts’ seminars, we discuss each single right, and each time we meet each side has its own say. Last time in Essex, for instance, we discussed ‘the right to health’. The European participants described to the Chinese counterpart how the right is protected in Europe. We described the situation in China. Now we are writing a report about this session with suggestions which will be soon submitted to our government”.¹³⁸ This suggests also that, this dialogue creates a “spiral of influence” whereby the knowledge acquired during dialogue sessions is then transmitted through reports to the governmental level. Here, sceptics about human rights and democracy in China are likely to see the, so to say, “death of all efforts”... but this is questionable. Then, as another Chinese scholar has claimed, “leaders are changing too”, implicitly referring to their mental attitude/behaviour toward human rights.¹³⁹

Thus, Chinese participants in expert dialogue sessions assume also a crucial role as human rights knowledge *mediator*: inside China they transfer the knowledge acquired during dialogue sessions to the “top” as well as to the so called “civil society”. Moreover, it is the author’s view that, because of their special position, hence their power to influence (i.e. challenge) especially the “top”, these Chinese participants can be assumed as the driving forces or the *special forces* toward change in China human rights cognitive behaviour. Then, as R. Weatherley suggests: “It may well be the case that raising new questions and challenges from within the system and from within the official parameters of permissible debate will have a greater impact on the nature and content of Chinese rights thinking than the more radical and vociferous challenges of dissidents from without”.¹⁴⁰ That is also in a way, to reshape Liu Qing’s first observation about dissidents as the “core group of people” who should drive the country toward change.

Also, there is a common belief that pressure and dialogue are two separated techniques to foster human rights change. The former, however, is also a form of “argumentative rationality”.¹⁴¹ As such it can be easily integrated to the dialogue *via* the selection of words and/or modulation of voice. Why not using the power of

¹³⁸ Interview with a Chinese participant.

¹³⁹ Interview with a Chinese scholar.

¹⁴⁰ See R. Weatherley, *The Discourse of Human Rights in China. New Departures in Chinese Thinking*, New York, St. Martin’s, 1999, p. 134.

¹⁴¹ See T. Risse & K. Sikkink, *op. cit.*, pp. 14 -16 and pp. 250 -256.

language? Quoting an example from one of last meetings of the Human Rights experts' seminar on "Judicial Guarantees of a Fair Trial", at the end of the session, the Chinese part literally "*you yidian'r shou bu liao*" ("couldn't bear") the term "recommendations" and proposed to replace it with the softer term "suggestions". The European dialogue director's answer to the Chinese counterpart was the following: "It has been said, however that this is all about trying to go a – step – further." A big silence of reflection has fallen in the meeting hall ...¹⁴²

To conclude, although this "dialogue and cooperation package" might well have started for some other motives than the pure promotion of human rights and democracy in China (i.e. avoid resolutions to protect trade interests), there are many reasons to believe that *by time* its realization *in praxis* has created what M. Kjaerum calls "a space" that some years ago, we could only dream of. Moreover, this is a space where, in my view, it is possible to encourage a bit better certain domestic forces. It may not be much now, yet it may mean everything in the future. Then, as Xiao Qiang states:

"While I believe that ultimately the struggle for a realization of human rights in China will be won by the Chinese people themselves, strong international support is crucial for bolstering and legitimizing the effort of the many individuals, both those working inside of the system and those participating in independent grassroots organizations, who are advancing the rights of one fifth of the earth's population."¹⁴³

Indeed, there are many reasons to believe that, bilateral dialogues like this one among experts act as *catalysts* of the abovementioned special forces toward another crucial dialogue: the internal one with their own government. Moreover, this dialogue is not taking place merely through reports as some regularly claim. "We teach human rights to our government's officials. People like Jiang Zemin have attended and attend our courses".¹⁴⁴ Then, as a Chinese participant argued: "Human rights imply an education process. By time, we will become clear about it."¹⁴⁵

¹⁴² From my personal notes at the Venice session of the EU-China Dialogue seminar, December 15-16, 2003.

¹⁴³ Xiao Qiang, *Looking at the changes in China from a human rights perspective*, in H. Thelle (ed.), *op. cit.* p. 39.

¹⁴⁴ Interview with a Chinese participant.

¹⁴⁵ Interview with a Chinese expert.



2.2.4.2. The Case of the Danish-Chinese Dialogue and Cooperation: a Quiet Space for Mutual Understanding and More

In this section, the author shall describe primarily *how* (i.e. what kind of strategy does the DIHR use? How is it articulated?) the Danish Institute for Human Rights (DIHR) works toward the achievement of Danish-China dialogue and cooperation “mutual understanding” and toward change of Chinese state and other actors’ cognitive behaviour. Moreover, the problematic of “tangible results” shall be discussed (i.e. what does “tangible results” really mean? When should they be expected? Are we sure about “invisible” results not being tangible results?).

Before arguing on these points, however, first of all, a brief account of some of the DIHR’s activities in relation to China so far shall be given.¹⁴⁶

DIHR¹⁴⁷ engagement in China began in 1998 at the first round of the EU-China human rights dialogue. Its first *result* was a joint research project on “prevention of the rights of suspects and detainees”, meaning prevention of the use of torture and ill-treatment by the police in the pre-trial phase, funded by the Danish Ministry of Foreign Affairs (DMFA). From summer 2002 the Institute got engaged in the EU-China Legal and Judicial Programme, a four-year project training Chinese legal scholars and practitioners in European law and legal practice. From 1999 to 2003, furthermore, an individual research project on social rights in China was supported by external funds. The next engagement was again a DMFA funded programme which has run from 2001 to 2003.¹⁴⁸ The three main components of this programme are the following:

¹⁴⁶ Most of the informations included in this section come from interviews with the China unit staff at DIHR and forthcoming documentation.

¹⁴⁷ Established in 1987 by an Act of Parliament, the DIHR is primarily founded by the Danish government. The international mandate of the DIHR encompasses support to human rights implementation abroad.

1. Legal Reform

The main partner of the DIHR in this area is the *Legal Institute of the China Academy of Social Sciences (LI/CASS)*.¹⁴⁹ The cooperation has consisted in a joint research on torture prevention and has evolved also around other topics as the protection of the rights of suspects and detainees and possibilities for reducing the death penalty. The cooperation has also included study visits to Denmark and other European countries for Chinese scholars and seminars and academic publications among which a joint publication entitled *Prevention of Torture: A Cross-Cultural Study*.¹⁵⁰

2. Awareness of Human Rights in Civil Society

In this area DIHR has co-operated with Hunan and Guangxi Provincial Women's Federation on training of legal staff.¹⁵¹ In the framework of the Guangxi Women's Federation legal staff training, a manual on domestic violence has been completed. According to the Chinese partner

“[The book] has provided a manual for grass root legal staff on typical cases. It will be the first practical tool and will provide legal references and help for handling cases. It is also the first manual on domestic violence and it has attracted great attention and received warm response. The public media has covered the manual widely. The Local Life Daily has started a special column to discuss domestic violence and it attracted wide participation of all walks of life.”¹⁵²

The achievement of such a manual constitutes a striking example of how the circulation of knowledge creates *more* knowledge whereby it becomes possible to raise awareness or achieve what shall be called “cognitive results”.

¹⁴⁸ Since January 1, this program has entered a new phase, which will run for the next three years.

¹⁴⁹ The DIHR describes the CASS as “a relatively independent research unit that provides research and counselling to the NPC and branches of the Government through direct internal consultations and publications available for the public.[...] CASS researchers have proven themselves capable of keeping a fine balance between a critical and cooperative attitude towards the Party.”

¹⁵⁰ The book has been published in spring 2004, by another publisher and with another title. It is in a bilingual Chinese-English format.

¹⁵¹ Both federations are part of the All China Womens Federations (ACWF).

DIHR supports also Open University courses in human rights at Hunan University to people who are not enrolled as students. With the same university Research Centre for Human Rights and Law, the DIHR has formulated a training manual for police officers at the provincial level. According to Diego Bang from the DIHR, although the formulation of the manual has been a very striking example of manoeuvring language it nevertheless represents an initial step toward awareness on the issues concerned hence results in a cognitive sense.

3. Academic capacity in Human Rights

In cooperation with the other Nordic Institutes, the DIHR has assisted in strengthening the capacity for human rights teaching and research at Chinese universities.¹⁵³ Thus activities have included training of teachers in human rights, teaching of human rights law, and formulation of human rights teaching materials.

All this, however, has not been and is not now at this moment without any dilemma. On the contrary. Among the problems faced by the DIHR during its work in China, there clearly are the ones we already mentioned above hence, the typical ones of engaging in human rights projects in authoritarian countries. To put in Dingding Chen words, whether the [DIHR] likes it or not, it *has to* deal with the state or the like. As the DIHR acknowledges, in fact:

“Cooperation [there, may entail that] activities are typically implemented in close contact with branches of the state. It is a common feature that civil society tends to be weak in these countries. However, even if civil society has developed, there is a need for interaction between the authoritarian state and external agencies supporting human rights. The degree of state control is typically high and necessitates that avenues are explored to establish trust between donors and relevant branches of the state – even in the cases where donors support civil society development.” And it follows: “The type of government in the specific always influences the attainable goals”.¹⁵⁴

¹⁵² Chinese report.

¹⁵³ Besides the DIHR, Nordic Institutes include the Swedish Raoul Wallenberg Institute (RWI) and the Norwegian Institute of Human Rights (NIHR).

¹⁵⁴ Lindsnaes, Birgit, Sano, Hans-Otto, and Thelle Hatla, *Human Rights in Action. Supporting Human Rights Work in Authoritarian Countries*, Danish Institute for Human Rights, (forthcoming).

In such an authoritarian framework thus, to foster what Taylor calls “mutual understanding” hence change in cognitive behaviour, DIHR has developed and primarily makes use of a strategy defined as a “windows of opportunity approach”. As the DIHR explains “The concept ‘windows of opportunity’ refers to ‘openings’ in the authoritarian patterns. In concrete terms, it refers to an invitation to cooperate, an acceptance by a partner in an unexpected or unfamiliar area.”

In the sensitive political context of China, the DIHR seeks mutual understanding and change in cognitive behaviour to influence behaviour in practice through a pattern of cooperation that is obviously concentrated on research, training courses and other awareness raising activities. The pattern takes the following forms:

- Training of high level authorities
- University and research cooperation
- Institutional cooperation including governance support within key sectors, e.g., justice or policing
- Legal aid projects

Moreover, from the very beginning of its mandate, the DIHR is acting according to certain principles as, for instance:

- Avoid politically sensitive issues. Torture and death penalty are striking examples. Surprisingly, however, dealing with both themes has been an express wish of the Chinese partner.
- Avoid politically sensitive places, like Tibet or Xinjiang.
- Avoid conflict of “formalities”. Sometimes the choice of a term instead of another is more technical than substantial. In this case, the DIHR ability consists in mediating between the diverging interests.

This suggests that DIHR has to *manoeuvre* between divergent wishes and options. Talking about the concrete use of the “windows of opportunity approach” in

fact, during cooperation DIHR has often made assessments and trade-offs. Sometimes it has been necessary for the institution in question, to literally reach compromises even on “linguistic” issues as, for instance, between the use of the expression “citizen’s rights” and “human rights”. Moreover, working with torture and ill-treatment could naturally entail the consideration of prison administration. When DIHR was involved in the cooperation on torture, however, it got a clear sign from the Danish donor (DMFA) that it was not to go into prisons, train prison guards or the like. As we have already suggested above, DIHR indeed, not only has to deal with the Chinese restrictions, but also with the political agenda of Western donors...

Thus, one may say that the DIHR is slowly, steadily but most of all, *wisely* contributing in open up and widen the already mentioned “space”.

Concerning ongoing work, as we have briefly announced above, since January 1 of this year, DIHR is engaged in a new phase of its cooperation program with China. Activities will address decisions makers and concerned authorities to improve laws and practices securing the rights of the individual to due process and fair trial in the process of criminal and social justice. As usual for the DIHR, awareness rising is a priority in this new phase of cooperation. In its feature the new program is also very “wide”, involving six Chinese partners representing state and independent institutions as well as civil society and mass organizations.

Moreover, as a Chinese scholar has suggested, “In dialogue and cooperation partnerships, politics of the donor country matters a lot. Denmark or better Nordic countries as a whole are social democracies hence emphasize social rights that we in China consider as a priority. Also, those countries are very focused on environmental issues and we in China, are very focused on these issues as well at the moment. Let me say that we have common interests, common goals...common grounds”.¹⁵⁵ This suggests once more what has been stressed before hence, how crucial is the role of politics in dealing with human rights issues.

As has already been seen, it has often been argued, however, that legal training, publication of manuals, visits here and there, and the general atmosphere of openness which characterizes “the dialogue and co-operation package” as such (i.e.

¹⁵⁵ Interview with a Chinese scholar. The same opinion was shared by some other colleagues as well.

for instance, the just abovementioned main activities and peculiarities of the DIHR-China co-operation) do not produce any “tangible results”.

Moreover, it is the author’s claim that, the problem lies in the understanding of the expression “tangible results”. Most of the time in fact, this expression is strictly associated with the final aim i.e. “less violations” whereas there clearly are other tangible results which have to be achieved “on the road” so to say, before less violations can occur.

Indeed, as has already been pointed out that, the lack of dialogue “tangible results” in terms of China human rights behaviour *in praxis* (i.e. less violations) on which INGOs and the like focus their criticism is founded on the belief that dialogue should serve the implementation of norms, the role of Western governments and other institutions essentially consisting then, in *pushing* and *pressuring* China toward that aim.

However, it has also been stressed that Western governments or the institutions for them have become aware that the essential precondition to achieve the final aim of less violations is a change of China human rights cognitive behaviour.

Thus, “tangible results” in terms of change in cognitive behaviour are even more crucial. The problem with this *kind* of results, however, is actually that, they are by their very nature *not* tangible. As Li Buyun argued “Certainly, dialogues and co-operations like the ones with Denmark and the EU have an influence (*yingxiang*) on Chinese leaders and government human rights thinking on the one hand, and on Chinese academics human rights thinking, on the other. This, however, is not ‘visible’, hence difficult to assess. You cannot open people head and see results! But, changes in law, these are all ‘visible’ results. A striking example, are the recent amendments to the PRC’s Constitution.¹⁵⁶ They can be also assumed as dialogue

¹⁵⁶ For an account of recent amendments to the PRC’s Constitution see the following documents:

China Daily, *Amendments to the Constitution*, at http://www.chinadaily.com.cn/english/doc/2004-03/15/content_314731.htm (17.05.2004).

_____, *Details of the amendments to the Constitution*, at http://www.chinadaily.com.cn/english/doc/2004-03/15/content_314797.htm (17.05.2004).

_____, *Constitution amendments endorsed*, at http://www.chinadaily.com.cn/english/doc/2004-03/14/content_314719.htm (17.05.2004).

results, because if there was no dialogue, we would not have any possibility to compare, and if there was no possibility to compare, we would not know what is wrong, hence what has to be changed.”¹⁵⁷

As a matter of fact, scientifically that is, pedagogically or psychologically speaking, there is a wide on-going research on how to measure cognitive results, and numerous approaches to test this kind of results, already exist. It is the author’s opinion, however, that first, the idea of “measuring human rights cognitive results” by itself sounds monstrous (who would undergo such a test? The author sincerely does not think that any state leader in the world would). Secondly, these measuring cognitive behaviour approaches or tests are not very well developed by now so, results are not reliable. Thirdly, some institutions still use human more than superhuman (or subhuman?) methods, and as far as the author is aware, the DIHR’s mandate, for instance, does not include such a test, for which relief, much thanks.

Consequently, as Li Buyun suggests, one has to rely on some “manifestations” of this change in cognitive behaviour as, indeed, the recent amendments to the Constitution that has already been mentioned above, or the proliferation of literature on human rights or human rights centres, for instance. As Li Buyun claimed “I am conscious that, some people have doubts about China sincerity and about dialogues in general. They say dialogue is ‘fake’, I know. However, why should then China farther promote human rights in terms of human rights law courses, and institutionalization of human rights centres, for instance? It has been claimed that, all

Guy Dinmore, Mure Dickie, *US to sponsor resolution criticising China*, at <http://news.ft.com/servlet/Contentserver?pgename=FT.com/StoryFT/FllStory&c=S...> (23.03.2004).

Xinhua, *Lawmakers adopt constitution amendments*, http://www.chindaily.com.cn/english/doc/2004-04/30/content_314671.htm (17.05.2004).

Shao Zongwei, *Action focus on guarding human rights*, at http://www.chinadaily.com.cn/english/doc/2004-03/14/content_315072.htm (17.05.2004).

¹⁵⁷ Interview with Li Buyun. Prof. Li Buyun is a leading Marxist expert on human rights. During the interview, in order to show how dialogue “transfer” of human rights thinking and knowledge works, hence produces results, Li Buyun argued about the following...*crescendo*: first, as we have already seen in the main text above, he suggested that both dialogue and cooperation “influence” Chinese academics. He is a Chinese academic. Thus, my own interpretation is that he considers himself among these *special* Chinese academics. Secondly, he said that, during the PRC’s Constitution revision phase, he was a proponent of a certain number of amendments. Finally, he argued that the main ones endorsed by the National People Congress (NPC) i.e. the reference to human rights and the introduction of the right of private property were part of his proposal. It is my view that, this is a perfect example of a dialogue “result”.

the activities around human rights are ‘well centralized’ in Beijing so that the nomenclature can exercise its control on it. But this is no longer true. Human rights centres are proliferating everywhere in the biggest cities and universities in China.¹⁵⁸ Is not this one more ‘visible’ result? Moreover, how could the fact that professionals from the Danish Institute come to China to teach us about human rights be qualified or the fact that, scholars such as the author can participate to international conferences and dialogue? For the author, to be allowed to participate to an international conference on human rights, for instance, is a human right, and now I as well as my colleagues, we all enjoy it.”¹⁵⁹ Furthermore the proliferation of literature (i.e. books, articles, reports, etc.) on human rights is often underestimated. Certainly, as has already been suggested before with the manuals developed in co-operation with the DIHR that is, the one on domestic violence and the one for police training, all this literature undergoes several revisions, and not without any ground. Still, it contains *a certain degree* of challenge that is, a degree which is acceptable to the “top”, and for which only Chinese people *within* the system, living everyday China have a sense.

Still, it is my impression that, with this whole “tangible results” discussion, one cannot but get entangled in a discourse *à la* Liu Qing (i.e. a discourse whereby we more or less assume progress by merely discussing certain “visible” patterns of change) whereas, as already claimed, the greatest result is clearly ‘invisible’ for the moment but it exists and calls also for other forms of dialogue to be “recognized”. Thus, in the light of what has been said above about measuring cognitive behaviour approaches, it seems the only *human* form we have to assess change in cognitive behaviour is clearly the one of sitting in front of these people and listen, talk and then, again listen and talk... Then it is the author’s view that, dialogue results are as much dynamic in nature as dialogue is. Thus, only the dynamicity of another dialogue can probably *grasp* them.

¹⁵⁸ The Chinese scholar also said that, he himself had worked for thirty years at the CASS. Afterwards, however, he would leave Beijing, and set up a human rights centre at the Hunan University where he works now.

¹⁵⁹ Interview with Li Buyun.

2.3. Concluding Remarks

From what precedes, there are many reasons to believe that, contrary to the opinion of most INGOs and the like, bilateral dialogues and cooperation programmes are likely to achieve great results in terms of mutual understanding and change in China human rights cognitive behaviour. Without those initial results, change in terms of human rights practice becomes suspect or simply impossible to achieve. However, this affirmation depends on the understanding of dialogue. In the light of Taylor's reconsideration of the concept that suggests that dialogue is also a part of diplomacy, and due to the cultural and political context of the country in question, the use of dialogue as diplomacy toward China no longer seems to be negative *per se*. Instead, it seems more than justified. Moreover, the fact of being a part of diplomacy does not qualify dialogue as less "true" or "successful" i.e. it does not automatically entail the risk of hypocrisy and failure in the promotion of human rights in China through *all* bilateral dialogues and cooperation programmes. Then, if "truthfulness" and "successfulness" of dialogue as diplomacy has become rather questionable in the ups and downs-framework of U.S.-China relations, both cases we have considered above clearly confirm that, although the Chinese scenario is a very complex one to deal with, it still be possible to find ways to go successfully through it, or simply try...Also, it is crucial to remember at this point that, dialogue embodies *the only non-shaming, non-coercive, hence human-rights friendly catalyst* toward human rights that the "global human rights polity" owns.

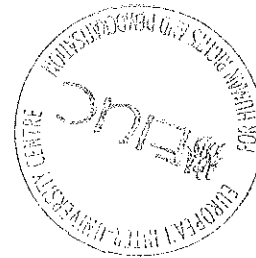
One may just wonder why in this chapter, the human rights standards on which the EU experts, the DIHR and their Chinese counterparts focus their work have not been taken into consideration. The reason for that exclusion, is that the main purpose here, was to investigate the methodology used by the institutions responsible in the different settings to further suggest that, without such *a proper enlightened methodology or strategy* consisting in diplomatically teach about human rights, raise awareness in human rights, and discuss about human rights norms, no matter how many rights dialogues and cooperation programmes seek to promote and implement and in which sequence, even for the fundamental ones there exists the risk to be frustrated yet in the name of Confucius, yet in the name of this or that priority.

Chapter 3

Future work: Questioning Philosophy and Enhancing Dialogue through the interconnection of Philosophy and Sinology

“If you do not know a person’s speech, you cannot understand him”

Confucius



3.1. Some Preliminary Remarks.

In a recent talk about how to improve human rights situation in China (i.e. how to change China human rights practices or behaviour *in praxis*), a Chinese scholar used the metaphor of “smoking”. He argued: “How should one stop smoking, if one doesn’t first work on ‘this’?” pointing with his finger at the top of his head...¹⁶⁰ The main idea behind is more than clear, hence, that no substantial change *in praxis* can occur without reaching human rights consciousness and validationfirst.

In the former chapter, indeed, it was seen how some bilateral dialogues with China follow this logic in their work. As far as the EU-China dialogue among experts is concerned it was seen how, starting with the exchange on European and Chinese view about a specific right or issue (i.e. death penalty, for instance) the knowledge acquired reaches the “top” as well as other levels of the society *via* different means (reports, human rights law courses, etc.). Moreover, through teaching, training and the publishing of specific manuals, the Danish-Chinese dialogue and cooperation’s first target consists of three main components i.e. legal reform, awareness of human rights in civil society and academic capacity in human rights. In other words, it produces change in China human rights *cognitive* behaviour involving Chinese people of different levels in the

¹⁶⁰ Interview with Li Buyun.

society in the study of and on human rights. However, in order to reach the ultimate goal of all this, which should be an improvement of China human rights *situation* (i.e. China change in human rights behaviour *in praxis* or simply, less violations), and hence reach what Risse and Sikkink call a “rule-consistent behaviour”, China, which has been described as stacked in the “tactical concessions” stage, should first reach the “prescriptive status” stage of the “spiral model”.¹⁶¹

At this point, some questions arise: how is it possible to move from change in cognitive behaviour to the endorsement of human rights norms hence from a “conscious status” to change in action? When does normally a smoker seriously stop smoking? He certainly needs something more than *just be conscious* about the bad consequences of smoke. He needs to be *convinced* about it, hence foresee the relevance and advantages for him to change his behaviour.

Drawing a parallel with China, the smoker example suggests that it is not enough for China to be conscious about human rights norms, almost as much as it is clearly not enough for the world as a whole to just claim about their “universality”. Something more is needed for human rights norms to become really valid and for the Chinese to achieve substantial improvement on the ground. That is legitimation or justification of human rights norms. As has already been anticipated in the former chapter, some bilateral dialogues are slowly, steadily and wisely supporting China in this project. There is however, a need to stop for a while and to question philosophy about what true legitimation implies, before suggesting how to enhance already existing bilateral dialogues in order to farther support China in this moral adventure along the path of the “spiral model” of human rights change.

3.2. From “Conscious Status” versus *Which* “Prescriptive Status”? Questioning Philosophy May Help. “Human Rights Cannot Skirt the Demand for Justification”.

As has been seen above, the fact of being aware and conscious about human rights norms does not necessarily entail the endorsement of those norms. According to Risse and Sikkink, this means for a given government that it has not yet reached a

¹⁶¹ For the sequence of the different stages, see the map of the “spiral model” of human rights change in Annex.

“prescriptive status” as , “governments can be said to have reached that stage when they are considered as accepting the validity of human rights norms”, and when they meet the following criteria:

- Ratification of the respective international human rights conventions including the optional protocols;
- Institutionalization of norms in the constitution and/or domestic law;
- Institutionalization of mechanisms for citizens to complain about human rights violations are established;
- Acknowledgement of human rights norms validity irrespective of the (domestic or international) audience, the government no longer denounces criticism as “interference in internal affairs”, and engages in a dialogue with their critics.¹⁶²

Among the above listed criteria, however, the last one seems rather problematic then, how can there be hope for the validity of norms to be acknowledged as such, “as the normal thing to do”, by a given government?

This is to say that human rights norms have an “undisputable validity”. They are norms, and hence work as laws *tout court* and not as laws about moral values. This is without a doubt, one of the central traits of legal positivism which, with the natural law theory, shares the weakness of not being conducive to reach a cross-cultural understanding on human rights, and therefore not being of any help in this case.¹⁶³

As already argued , in fact, such a framework presupposes actors (i.e. norm-violating states) as *passive*, whereas, “especially powerful states like China” constantly prove to be *active* and *creative* during socialization processes to human rights norms. It

¹⁶² T. Risse and K. Sikkink, *op. cit.*, 1999, p. 29.

¹⁶³ G. Ulrich claims that “the natural law paradigm is not tenable in a contemporary context and not conducive to reaching a cross-cultural understanding, but it is nevertheless of paramount importance because it continues to profoundly shape our conception of human rights.” About legal positivism, the same author maintains that “[it] reveals a number of noteworthy weaknesses. One is that in spite of claims to the contrary, it does not effectively foreclose the debate about relativism, at least not in a manner that is satisfactory to all participants in the debate.” For these quotations, see respectively George Ulrich, *Universal Human Rights: An Unfinished Project*, in Kirsten Hastrup (ed.), *Human Rights on Common Grounds. The Quest for Universality*, The Hague, Kluwer Law International, 2001, p. 201 and p. 207.

has already been seen/experienced that “China can say no”, haven’t we? ¹⁶⁴ Moreover, it is the author’s view that there is something disrespectful in the third criteria as stated by Risse and Sikkink. As a Western scholar points out: “In essence, the promotion of international human rights is about reaching a common understanding about core values and standard of public policy, and to this end *it is indispensable that we engage in the debate about validity.*”¹⁶⁵ Validity, to sum up becomes something that should be discussed and not something that is given, or that should assume a “taken for granted” character, as Risse and Sikkink argue instead.¹⁶⁶

As a matter of fact, academics and professionals at different levels of the Chinese society challenge their own government stance on human rights from within.¹⁶⁷ However, for its part, the Chinese government in its *stricto sensu*, with its more recurrent argument that human rights are a luxury project that does not answer to China real social problems¹⁶⁸, challenges not the universality as such, but the universality of human rights norms in their scope of applicability (i.e. *universality of validity*).

Let us take the worldwide known issue of overpopulation in China, for instance. Could human rights, in particular civil and political rights solve this problem? At first sight, not really. So, where should a Chinese leader find the justification or legitimation of human rights norms if those are not of any help to solve his country’s main

¹⁶⁴ As Marina Svensson argues, “The failure in 1993 to get the Olympics was for many a turning point, and this disappointment coupled with a growing nationalism, which is encouraged by the government since communism no longer can hold the country together, has led some young scholars to refute human rights as a ploy used by the West against China. They detected a double-standard in the human rights policy of the West, and sense a conspiracy which attempts to contain China. The most notable example of such a line of thinking is the book *China can say no*”. See for this quotation, Marina Svensson, *The Chinese Strategy On Human Rights: Co-option, Dialogue and Repression*, in *op. cit.*, p. 54.

¹⁶⁵ See George Ulrich, *op. cit.*, p. 201.

¹⁶⁶ T. Risse and K. Sikkink, *op. cit.*, p. 17.

¹⁶⁷ As Edward Friedman argues, in fact, “Chinese today are also divided. Human rights progress has never been simply a matter of the East versus the West”. For this quotation, see E. Friedman, *Since There is No East and There Is No West, How Could Either Be the Best?*, in M. Jacobsen, Bruun, Ole (eds.), *op. cit.*, p. 41. See, also M. Svensson *The Chinese Debate on Asian Values and Human Rights: some Reflections on Relativism, Nationalism and Orientalism*, in M. Jacobsen, Bruun, Ole (eds.), *op. cit.*, pp. , and Yash Gai, *Asian Perspectives on Human Rights*, in James H. Tang (ed.), *Human Rights and International Relations in the Asian-Pacific Region*, London, Pinter, 1995, pp. 54-67.

¹⁶⁸ *À propos* Chinese government’s claims about universality of human rights norms, Marina Svensson points out the following: “China as a socialist country relies more on the argument that different stages of economic development influence the realization of human rights than the argument that different cultural and historical conditions give rise to different views on human rights”. For this quotation, see Marina Svensson, *The Chinese Debate on Asian Values and Human Rights: some Reflections on Relativism, Nationalism and Orientalism*, in M. Jacobsen, Bruun, Ole (eds.), *op. cit.*, p. 201.

problems, and on the contrary might add new problems to the already existing ones i.e. political and economical instability?

Philosophy may help.

According to G. Ulrich, the question of legitimation can be approached from two different angles.¹⁶⁹ One is forward-looking and concerns the *derivation* of human rights from certain prior principles.¹⁷⁰ The other, that may be called “backward-looking”, and is part and parcel of the on-going validation of specific human rights standards in different social and cultural contexts, would be to take one’s own point of departure in already established international human rights articles and subject them to a test of validity.¹⁷¹ Habermas presents a similar test. On his account, “a law may claim legitimacy only if all those possibly affected could consent to it after participating in rational discourse”. That is to say, that a law to which the parties affected are not capable of rationally consenting is invalid. According to G. Ulrich, however, whereas the constructivist interpretation has a ready answer to many of the criticism against universal human rights in the name of cultural relativism¹⁷², it has none to the charge that human rights protection is a luxury project that does not answer to the real social problems in many part of the world.¹⁷³ In other words, it has no answer to the Chinese government who, consequently, can easily justify the use of coercive measures to solve social problems (see the case of massive sterilizations and abortions in the framework of the one-child policy to, so to say, “solve” the problem of overpopulation).

The same author, however, who, following Habermas line of reasoning, has further conceptualized the test of validity, claims: “it must never be assumed in advance that it is impossible to find effective solutions to pressing social problems that are consistent with the restrictions on policy making established by human rights. It must, on the other hand, not be taken as a foregone conclusion that this is possible either.

¹⁶⁹ See George Ulrich, *op. cit.*, 2001, p. 217.

¹⁷⁰ *Ibidem.*

¹⁷¹ *Ibidem*, p. 218.

¹⁷² As G. Ulrich reports: “To the charge that human rights are an alien notion in many cultural contexts, the response is that the same was once true in occidental society as well, but will not last for long in non-western societies with the advance of globalization. To the charge that human rights have a corrupting influence on local cultures the response is: no, it is the process of intense modernization that places immense strain on traditional values and social structures; the construct of human rights serve to protect diversity from the most pernicious effects of economic and technological globalization. The same answer is given to the charge that human rights are excessively individualistic that is, no; individuation is an unavoidable feature of social modernization.” For this quotation, see G. Ulrich, *op. cit.*, p. 219.

¹⁷³ *Ibidem*, p. 220.

Rather it is necessary in each case to search for adaptations and creative solutions to the interface of human rights thinking with actual social exigencies.”¹⁷⁴ This is what he further calls *the test of pertinence*, and which he describes as follows:

“[The test of pertinence] stipulates that to be valid, human rights standards must be relevant and constructive in the contexts in which they are applied. They must, in other words, provide a *framework* within which it is possible to find solutions to the exigencies of the given historical and social moment. Otherwise they are not valid. [...] What happens is that the question of validity is no longer subject to a test than can be settled once for all. Rather, we are faced with an on-going test which defines the universality of human rights essentially as an unfinished project.”¹⁷⁵

Thus, norms are valid if they can provide solutions to the social problems faced by a given state at a given moment. This is, in a way, to acknowledge that particularities (culture, historical phases, etc.) do matter; moreover they decide the validity of the norms for a given state at a given moment.

While this qualified view of the notion of universality makes it easier to justify the existence of human rights for the Chinese, for instance, it also entails some risks. Then, the Chinese government could claim, for instance, that it does not implement “the right to vote” because it does not solve any of the main problems China is facing today. In other words, such a view creates the possibility that human rights can vary in their scope, weight and ranking if fundamental interests and threats vary, and because of its “special circumstances” China may adopt a different view as to the ranking and implementation of human rights. Which is, actually, very much what happens in reality. China has set priorities: first and foremost comes the full realization of the right to subsistence and the right to development and then, first economic and social rights, one day civil and political rights.

According to Joseph Chan, however, “A *certain degree* of diversity in understanding the scope, limitation and ranking of human rights can be reasonable and legitimate.”¹⁷⁶ He also adds: “The point that human rights allow for, and require, active and substantive ideological interpretations is supported not only by philosophical

¹⁷⁴ *Ibidem*.

¹⁷⁵ *Ibidem*, p.221.

reasoning, but also by empirical, legal facts.”¹⁷⁷ Apart from a certain number of specific rights which are stated in absolute terms, both the Universal declaration and the International Covenant on Civil and Political Rights, for instance, contain clauses of limitation and derogation which are wide enough to allow a diversity of approaches generated by different political moralities and societal contexts.

His claim for allowing for a different scope in human rights interpretation, however, is a moderate one. As he states: “the interpretations of the limitations clauses should not be arbitrary”.¹⁷⁸ They have to follow certain principles, and the principle of necessity and proportionality, for instance, are essential.¹⁷⁹ Moreover, in interpreting the political morality of a country the government should not monopolise the right of interpretation.¹⁸⁰ This is where it can become rather problematic in authoritarian countries such as China where courts are not fully independent in judging political cases and citizens, and are not able to critically challenge the regime. As G. Ulrich acknowledges, in fact, “To meaningfully achieve a set of common normative standards in a world marked by radical and shifting differences necessitates *the development of powerful mechanisms of adaptation* without, however, jeopardizing the ‘transcendental’ function of human rights as a common critical standard. This is a difficult balance to strike but a necessary one.”¹⁸¹ A very good sign in that direction is the very marked interest that some Chinese scholars and experts show for the European Court of Human Rights and in particular to its very well known principle of “margin of appreciation”, which function is precisely the one of “a powerful mechanism of adaptation”.¹⁸² Then, as J.A. Andrews states, indeed:

¹⁷⁶ Joseph Chan, *The Asian Challenge to Universal Human Rights. A Philosophical Appraisal*, in James T.H. Tang (ed.), *op. cit.*, p. 32.

¹⁷⁷ J. Chan, *Thick and Thin Accounts of Human Rights: Lessons from the Asian Values Debate*, in M. Jacobsen and O. Bruun (eds.), *op. cit.*, p. 68.

¹⁷⁸ Joseph Chan, *The Asian Challenge to Universal Human Rights. A Philosophical Appraisal*, in James T.H. Tang (ed.), *op. cit.*, p. 29 and p. 33

¹⁷⁹ *Ibidem*, p. 36.

¹⁸⁰ *Ibidem*.

¹⁸¹ See George Ulrich, *op. cit.*, p. 221.

¹⁸² Interview with a Chinese expert.

On the “margin of appreciation”, Joseph Chan writes as follows: “The European court has applied the principle of ‘margin of appreciation’ to the contracting states in Europe, because it recognises that it is impossible to find ‘a uniform conception of morals’ to guide interpretation of those rights which are closely associated with the political, cultural, economic, and moral issues of a society. This principle grants individual states the discretion to make judgements on the balancing of rights and public morals, public order, etc.” For this quotation, see J. Chan, *Thick and Thin Accounts of Human Rights: Lessons from the Asian Values Debate*, in M. Jacobsen and O. Bruun (eds.), *op. cit.*, p. 67.

“Whatever the extent of like-mindedness and the common heritage of the Member States of the Council of Europe, the fact remains that, the extent of their common traditions, shared values and cultural alikeness is relative. Looked at from an African or Islamic perspective, there may appear to be a coherence of values in Western Europe. Within the States themselves, despite extensive Europeanization since 1945, there remain significant social and cultural differences.”¹⁸³

It is rather easy to imagine that such a gap, as it exists between interpretations inside Europe, will be even greater at the global level.

From what we have stated above therefore, China does not seem likely to achieve a “prescriptive status” as conceptualized by Risse and Sikkink. Instead, a “prescriptive status” is likely to be reached through the gradual legitimation or validation of human rights norms that, excepted for those stated in absolute terms will be given a certain degree of interpretation which is very much what some dialogues as the ones we have seen in the former chapter are supporting in their initial target of what Taylor calls, “mutual understanding”.

3.3. Interconnecting Elements: Dialogue, Philosophy and Sinology

In the light of what has been seen in the former section, constructivism can help answer to the Chinese charge (i.e. there are not only coercive measures to solve problems), but it also may help impatient human rights advocates to better “read” the graduality that characterises the work of bilateral dialogues. Moreover, the implementation of human rights in China and the change in its human rights performance/situation that human rights advocates sometimes qualify as “impressionistic”, as a matter of fact, just naturally reflect the pattern of the on-going legitimation (i.e. precondition to implementation). This is to say that for the “right to vote”, for instance, to become valid and be implemented in China, much rides on what happens inside Chinese politics. Then, dialogues can foster domestic forces toward

¹⁸³ *Ibidem.*

democracy but, ultimately, the precondition to that (i.e. the concretization of a split inside the PCC and the consequent possible pluripartitism), is ultimately a Chinese matter.

This is not to say, however, that dialogue as such cannot be improved to accelerate the whole process toward improvement of the human rights situation in China.

Now that it is known, through constructivism, that particularities do matter that is, Chinese culture, history, politics, etc. in this specific case, it seems very important to stress the relevance for those involved in bilateral dialogues with China to acquire *as much knowledge as possible* in those fields. Moreover, we have already seen with T. Taylor, in chapter 2, that dialogue partners should be *aware* about each others world views and ideologies. Thus, it is suggested that, Stephen C. Angle's recent book *Human Rights and Chinese Thought*, for instance, should become a *manual* for the European dialogue and cooperation partners and all those who want to achieve "tangible results" in their human rights work with and in China. This book fills an important gap in the literature on the relations between Chinese Thought, Confucianism and human rights. It shows that there is a rich, complex and continuous Chinese thinking about rights that lies between, and connects, the classical and contemporary periods of Chinese thought. It also shows that Chinese rights discourse is not an imperfect attempt to mirror Western ideas but has developed in accord with Chinese concerns and practices. One more proof that China is not *passive* but *creative*, and that today it is not about "new departures in Chinese thinking on human rights" as some have argued but rather the continuation of a discourse started years and years ago within China, and now, since only 1989, has encountered ours.

Furthermore, for dialogues and co-operations to be successful, *contextual* knowledge seems a very crucial factor. To be sinologist, does not automatically entail the knowledge about how things work in China as much as it does not imply having specific knowledge in Chinese law, and there apparently is a big need of these people in bilateral programmes, for instance. In fact, according to Sophia Woodman,, "Another important element of strategy is knowledge: understanding the context, making information about projects available to others and learning from experience. [...] On the donor side, the aid process generally often suffers from *a lack of people with in-depth country knowledge and language skills* working on project design and management, and

this tends to be a particular problem in bilateral programmes. Levels of knowledge of the staff involved were a critical factor in determining the quality of projects.”¹⁸⁴

Indeed, intercultural communication issues are underestimated. Often human rights promoters are too busy with the *legal* aspect of human rights, and forget about the *moral* one which, as has already been mentioned before, is the aspect simultaneously linked to the “dynamic” culture, language, and history of a given country. According to P. Balboni, generally, language is first perceived as voiced expression.¹⁸⁵ Language, however, is also determined by the choice of words, by the use of grammar, and most of all by the structure given to our “texts” i.e. the linguistic component of a communicative event.¹⁸⁶ He argues: “The *textual* aspect of languages is the aspect that creates the greatest communication problems between speakers with different mental software”.¹⁸⁷ He continues: “The Asiatic text goes like a spiral: while avoiding strain (perceived as impolite), and avoiding to go straight to the point (another form of impoliteness), the Asiatic text approaches its aim progressively. [...] Both Europeans and Americans perceive it as time losing, as an ectoplasmic fog which nobody knows what it belies and where it brings. All these are perceptions that jeopardise the success of communication.”¹⁸⁸, and hence jeopardise dialogue.

Moreover, contextual knowledge and language skills both can help reaching “different” voices. Then, as an Italian scholar has pointed out: “Each cultural universe is plural, and inside each cultural universe there are different positions.”¹⁸⁹ It is thus very important to single out forces that can have a great impact on human rights thinking in China but also, although indirectly, on human rights *praxis*, and engage in a specific dialogue with them. According to R. Weatherley in fact, “the centres of applied research that many of them are attached to (e.g. the Chinese Academy of Social Sciences and the Peace and Development Institute) have manoeuvred themselves into a position where they are much closer to the architects of Chinese human rights policy”.¹⁹⁰ Xia Yong, Yu

¹⁸⁴ See Sophia Woodman, *Bilateral Aid to Improve Human Rights*, «China Perspectives», n. 51, January-February 2004, p. 28, as reproduced at http://www.cefc.com.hk/cgi-bin/restricted2_gb.cgi. Emphasis added.

¹⁸⁵ See Paolo Balboni, *Parole comuni, culture diverse. Guida alla comunicazione interculturale*, Venezia, Marsilio, 1999, pp. 78.

¹⁸⁶ *Ibidem*.

¹⁸⁷ *Ibidem*, p. 82.

¹⁸⁸ *Ibidem*.

¹⁸⁹ Andrea Pacini, *Dialogo tra le culture nel mondo contemporaneo*, Relazione tenuta ai “Venerdì letterari”, Torino, 16 marzo 2001, p. 11.

¹⁹⁰ Robert Weatherley, *op. cit.*, p. 157.

Keping, Li Buyun, Xu Bing, and Zhang Wenxian, for instance, all object the standard views on human rights and propose alternative and more original views.¹⁹¹ These are very well described by several scholars, so there is not much that can be added here. Nevertheless, the author wished to point out that, often some of these scholars have just assumed these “new” views as coming from Western ideas, whereas, as S. C. Angle has argued throughout his book, Chinese rights discourse has also a life on its own.

Also, bilateral dialogues that already exist should not prevent other dialogues to come. *A contrario*. The author shares S.C. Angle’s idea that “[bilateral dialogues] are far from the only form of dialogue that should be encouraged. Horizontal engagement should be pursued wherever possible. Opportunities for engagement increase every day as global interconnections increase and communication technologies improve. In each context, the respect that grounds toleration should be valued, and thus we should seek an accommodation of our differences in a spirit of toleration.”¹⁹²

Last but not least in this list of suggestions about how to enhance bilateral dialogues, when doubts and impatience for “tangible results” raise, criticism (i.e. dialogue criticism and criticism toward China human rights performance or situation) and bilateral dialogues, should question philosophy which, for much what happens on earth, may have a ready answer, always bearing in mind that dialogue by its very nature is an on-going process which also spontaneously improves “on the road”.

3.4. Combining Strategies: What about Dialogue plus Pressure?

Many Western as well as Chinese scholars, INGOs, etc. have stressed that a combination of dialogue and pressure is a perfect recipe to accelerate improvement in China human rights behaviour and situation.¹⁹³ Moreover, that pressure can enhance

¹⁹¹ For an account of these “alternative” Chinese views on human rights, see Marina Svensson, *The Chinese Conception of Human Rights. The Debate on Human Rights in China, 1898-1949*, Ph.D. dissertation Lund University, 1996, pp. 300-303; see also, Stephen C. Angle, *op. cit.*, chap. 8, pp. 205-249, and Robert Weatherley, *op. cit.*, pp. 132-157.

¹⁹² See Stephen C. Angle, *op. cit.*, p. 257.

¹⁹³ Interview with European and Chinese scholars.

dialogue intrinsic potentiality.¹⁹⁴ But “pressure” as such is a very vague term. What does it really entail “to pressure”?

According to Risse and Sikkink, pressure as dialogue, is also a form of persuasion, but differing from the latter, which is aimed at changing minds essentially through the logic of reasoning, pressure is a form of persuasion that is not devoid of conflict and coercion, and does not necessarily imply reasoning.¹⁹⁵ Thus, processes such as shame and denunciations aimed at changing minds by isolating or embarrassing, on the one hand, and economic and military sanctions aimed at depriving a given state of certain material benefits, on the other, which inevitably create conflict (who likes to be embarrassed or deprived of something?), are all different forms of pressure.

In chapter 1, there has been a long discussion about the counterproductive effect of “the diplomacy of shame” as it has been extensively used during last decade by human rights advocates toward China. Thus, it is not necessary to discuss it further here. To acknowledge, however, that shame has been counterproductive, is not to say that all criticism is out of question.

It is widely recognized in China as much as in Western countries, that it has been pressure in the form of massive criticism by different INGOs and criticism in multilateral settings at the UN that have opened up the gate to the “spiral model” of human rights change in China, and hence also “provoked” dialogues and their respective ramifications between China and many Western powers. It is also widely recognized, however, that such a policy is not really constructive in a long-term. Then, even though the PRC has immediately shown some signs of compliance in response to shame, that form of compliance cannot be assumed as resulting from China having learned or internalized behaviour which is actually the behaviour for which the whole human rights policy should aim, and, as we saw in chapter 2, some bilateral dialogues are aiming at.

What should be avoided in the future therefore is the use of “confrontational” criticism in terms of shame, or criticism that only concentrates on the “dark side of the moon”, so to say. Then, if I am allowed to switch for a little while in “popular” psychology, such a partial criticism works negatively on people’s motivation, inside as

¹⁹⁴ Interview with Morten Kjaerum.

¹⁹⁵ T. Risse & K. Sikkink, *op. cit.*, p. 14.

well as outside China, whereby recognising efforts and positive results, and can be much more encouraging!

A major problem arises with resolutions as they are sponsored at the UN Commission for Human Rights and which are unequivocally perceived as “confrontational” by the Chinese. Last time in Geneva, indeed, one day after Washington said it would seek to criticise the mainland’s rights record, China angrily suspended dialogue on human rights with the United States.¹⁹⁶ Moreover, the Chinese representative in Geneva, Sha Zukang, claimed that the Commission should engage in dialogue and co-operation, instead of merely “name and shame? criticise and shame”. As a matter of fact, although in principle multilateral settings as the one at the UN should embody the best mechanism to achieve change from states in terms of human rights, still over time, the resolution-system as such has turned to be a way to inconsistently “isolate and embarrass” China (i.e. shame it) thereby clearly manifesting political pathologies more than global concern about China human rights record.¹⁹⁷ As

¹⁹⁶ For an account of the US resolution to China and the consequent US-China Human Rights Dialogue suspension, see the following documents:

AFP and Reuters, *Crise ouverte entre la Chine et les Etats-Unis sur les droits humains*, at http://www.lemonde.fr/web/recherche_articleweb/1,13-0,36 (23.03.2004).

Afsané Bassir Pour, *Les Etats-Unis condamnent le “recul” de la Chine sur les droits de l’homme*, <http://www.lemonde.fr/library/print/ENGASA170651999> (23.03.2004).

BBC News World Edition, *China halts rights talks with US*, Tuesday, 23 March, 2004, as reproduced at <http://news.bbc.co.uk/2/hi/asia-pacific/3559743.stm>.

Jia Hepeng, *Amendment highlight common citizens’ rights*, at http://www.chinadaily.com.cn/english/doc/2004-03/14/content_318195.htm (17.05.2004).

Reuters, *U.S. Seeks U.N. ... Condemnation of China Rights Abuse*, at <http://www.reuters.com/newsArticle.jhtml?type=topNews&storyID=4625300> (23.03.2004).

Saul Hudson, *U.S. Moves on China Rights Resolution Despite Anger*, at <http://www.reuters.com/newsArticle.jhtml?type=topNews&storyID=4440228> (23.03.2004).

Sidney Jones, *EU-China Human Rights Dialogue Must Produce Results*, at <http://www.hrw.org/press98/mar/eu-chin.htm> (23.02.2004).

The Associated Press, *China Suspends Human Rights Dialogue with U.S.*, «The New York Times», March 23, 2004, as reproduced at <http://www.nytimes.com/aponline/international/AP-China-US-Human-Rights.html> (23.03.2004).

The Associated Press, *US to Criticize China’s Human Rights*, at <http://www.nytimes.com/aponline/international/AP-US-China.html> (23.03.2004).

¹⁹⁷ As far as “inconsistence” and “pathologies” are concerned, the French newspaper *Le Monde* reported the following comment: “L’an dernier, les Etats-Unis n’avaient pas soutenu une telle initiative. Les Américains recherchaient à l’époque la faveur des Chinois pour traiter le dossier nucléaire nord-coréen et pour les soutenir dans leur intervention en Irak.” See, AFP and Reuters, *op. cit.*. Moreover, BBC News reported: “The US move came as the EU ministers prepared to consider lifting an arms embargo placed upon China in the wake of the

S.C. Angle argues, in fact: “Too often those of us in a position to influence views about other nations – including scholars, the media, and authorities [...] – demonise or harangue rather than working toward open, balanced understanding and criticisms. The power of the market to shape our media, no less than the political leaders, needs to be carefully watched if we are to work toward a real accommodation, and perhaps ultimately consensus.”¹⁹⁸

Thus, criticism could be a form of pressure to associate to dialogue, but criteria need to be revised, and both criteria of consistence and comprehensiveness (i.e. describing both sides of the moon) seem to be rather fundamental to critic one’s own credibility. As a Chinese scholar claimed, indeed, “Criticism plays also a crucial role in fostering China toward compliance, but one should be clear about *how* to do that.”¹⁹⁹

Now, what about combining dialogue and sanctions?

In chapter II, it has already been seen that in the international relations perspective, critical dialogue is part of the mediating element (diplomacy) between a range of foreign policy tools and the target state.²⁰⁰ According to Taylor, this concept has implications for its relationships with other foreign policy tools such as economic aid and military sanctions.²⁰¹ As he argues “The most significant is perhaps that critical dialogue, being an activity with a different character from, for instance, economic sanctions, *is not incompatible with, or an alternative for*, the use of any policy tool”.²⁰² That is to say that sanctions and dialogue both can, theoretically, be feasible. Sanctions and dialogue, however, seem rather incompatible when they have fundamentally different purposes.²⁰³ So, what about the alleged “incompatibility” that recently seems to arise in relation to the EU-China dialogue and the arms embargo?²⁰⁴ Apparently, there

1989 Tiananmen Square killings. The US, which has its own embargo in place, is opposed to the EU relaxing its measures.” See, BBC News World Edition, *op. cit.*.

¹⁹⁸ Stephen C. Angle, *op. cit.*, p. 257.

¹⁹⁹ Interview with Li Buyun.

²⁰⁰ See T. Taylor, *op. cit.*, p. 249.

²⁰¹ *Ibidem*, p. 250.

²⁰² *Ibidem*, p. 256. Emphasis added.

²⁰³ *Ibidem*, p. 257.

²⁰⁴ Last Spring Chinese Prime Minister Wen Jiabao has responded to the President of the European Commission Romano Prodi his request to lift the EU arms embargo toward the PRC. Prodi replied that, the issue was “under discussion between EU members”. As reported in the short text of the official communication of the European Foreign Ministers Council (26-27 April 2004): “The solution will have to take into consideration the PRC’s human rights situation, the growing bilateral relations between the EU and China, and the EU intention to develop a strategic partnership with China”, hence suggesting that, among other motives, also the growing bilateral dialogue and cooperation with China could lead to the lifting of the embargo in the future. For the

is no incompatibility because both are aimed at achieving change in China's human rights behaviour. Then, if the on-going arms embargo would hide the intention of, for instance, overthrowing the Chinese government, there would be no point to be "constructive" with the same, hence there would be no point to have a political dialogue and its ramifications. Nor, according to INGOs as AI and HRW, is progress in terms of human rights of such an entity to allow the lifting of the embargo. It has been suggested that the arms embargo toward China should not be a theme of discussion.²⁰⁵ Last December, in fact, a great majority of the European Parliament already expressed itself against the French-German proposal to its abolition, arguing that: "The human rights situation in China still unsatisfying, violations of fundamental freedoms, as well as cases of torture, inhuman and degrading treatment and arbitrary detention still occur throughout the country".²⁰⁶ Several analysts argue that, basically, "France and Germany share the Chinese intention to contrast the unilateralism of Washington."²⁰⁷ Material benefits also play their role in the whole story. According to the same source, "In striving for the embargo's lifting, a big role is played by European arms industries. In order to still be competitive, those industries have been asking, and for long time now, the lifting of the heavy restrictions on arms export. Moreover, since they didn't find any support in the European Parliament, they started lobbying their own government."²⁰⁸

Thus, it seems very difficult in reality to uphold compatibility between dialogue and other foreign tools when the foreign tool in question entails confrontation. This does not imply that one should renounce compatibility and confrontation *in toto*. Then, as some scholars argue "it can be necessary to choose between cooperation and confrontational approach, and both have to be used, but may be not by the same organization at the same time."²⁰⁹ This "division of labour", as the same scholars call it, seems a good solution for the future; yet, it does not solve the EU-China dilemma (i.e. dialogue or embargo) as it could look like in some months, if the EU, for instance, still resist China.

quotations see, Giorgio Beretta, *UE-Cina: armi, diritti umani ed economia di guerra*, «Unimondo», lunedì, 10 maggio, 2004, as reproduced at <http://unimondo.oneworld.net/article/view/85654>.

²⁰⁵ *Ibidem*.

²⁰⁶ *Ibidem*.

²⁰⁷ *Ibidem*.

²⁰⁸ *Ibidem*.

²⁰⁹ B. Lindsnaes, H. Sano, and H. Thelle, *op. cit.*, (forthcoming).

According to Taylor, “when and whether to underline dialogue and/or sanctions, will be determined by the position of both the target and the initiating state. [...] However, the greater the cost of isolation and sanctions to the initiating state the more reluctant it will be to endorse them. [...] The US was enthusiastic about dialogue with China because sanctions would be so expensive and difficult to arrange.”²¹⁰ This depicts a rather demoralising picture of interstate relations as well as a demoralising prospect for the future of EU credibility, already somewhat undermined by the absence of human rights clauses in its trade agreements with China.²¹¹

It is the author’s claim, therefore, that here is where, in the author’s view, criticism of INGOs should improve in its turn, and could be crucial for future developments. And, although it is clear for a lot of people around the world that, the last thing it needs is more arms, it is also more than clear that people as Mr. Beretta, and Mr. Berlusconi in Italy do certainly, manifestly and most of all regrettably, not share the same concern.²¹²

3.5. Concluding Remarks

Questioning philosophy can help to explain matters on earth, and questioning philosophy here, has helped understand why the transition from “conscious status” to “prescriptive status” (i.e. implementation of human rights norms) is a rather complex and time demanding task. Constructivism argues that in our contemporary world, is not possible to avoid the question of legitimation, and it is precisely in this process of the validation of human rights norms that we identify Taylor’s initial target of mutual understanding in which some bilateral dialogues are involved. Furthermore, in the light of philosophical answers and with the aim of accelerating the whole process, some suggestions have been made about how to enhance already existing bilateral dialogues.

²¹⁰ See T. Taylor, *op. cit.*, p. 259.

²¹¹ China and the Community are bound by a trade and co-operation agreement concluded in 1985, and as this agreement was concluded at such an early stage, it does not contain any human rights clauses nor is there any reference to human rights in the preamble. Thus, there is no legal basis to suspend it on human rights grounds (i.e. there is no human rights conditionality). Almost all agreements of that generation have been renewed, but not this one with China.

²¹² Beretta is one of the most well known Italian industries of arms. As far as the arms embargo is concerned, “Italy has decided to break all uncertainties: last governmental Report on the export of arms informs that, in the year 2003 the Berlusconi government has authorized arms industries to sell arms to the PRC for a total amount of 127 millions Euros to the PRC.” See, Giorgio Beretta, *op.cit.*.

Contextual knowledge and language skills are crucial factors, and “sources” exist. It seems rather a question of activating them, moreover, a question of better coordination in bilateral human rights work. Finally, the widely spread idea of combining dialogue and pressure has been raised, as, as one of the most prominent Chinese human rights activists, Xiao Qiang argues: “The promotion of human rights in China requires a concerted effort on the part of all levels of the international and domestic communities. While I believe that ultimately the struggle for a realization of human rights in China will be won by the Chinese people themselves, strong international support is crucial for bolstering and legitimizing the effort of the many individuals, both those working inside of the system and those participating in independent grassroots organizations”.²¹³ At a certain point, however, it seems rather unfeasible, for the same organization, institution or the like to uphold both approaches: dialogical and confrontational. Thus, a “division of labour”, as it has been suggested by Danish scholars at the DIHR, could be an interesting solution. Meanwhile, however, some situations call for able manoeuvring (i.e. EU-China dialogue and arms embargo, for instance), and what should be avoided, in the author’s view, is the suspension of constructive bilateral dialogues then, as it should be more evident now, this would entail the risk of a parallel suspension of the evolutionary process of substantiation and implementation of human rights in China. In other words, it is my opinion that some dialogues and co-operations should continue at all costs.

Conclusions

What Has To Be Done

When Human Rights Have Not the Same Appeal as *Cartier* and the Same Taste as *Pepsi*

As a Sinologist passionate by China, I remember I was as optimistic as Liu Qing about the “critical trinity”: China, Human Rights and Democracy. Coming back from Beijing with a big smile on my face, I have been often asked: “How is it with human rights there? What about democracy?” I would generally lose my smile and think to myself: “What are they talking about?” Afterwards, however, I would nonetheless come up with some observations *à la* Liu Qing i.e. “Well... with the economic growth, a ‘civil society’ is emerging, people start to experience individuation and talk in terms of *freedom* whereby I guess their concept of autonomy is changing and so on and so forth.” Moreover, I used to raise the example of the Chinese term *ziyou*²¹⁴, which meanwhile had become “*shimao*” i.e. “fashionable” among the more young generations in China. To show the widespread use of the word, I even used to quote a women napkins’ advertisement! The set was as follows: a girl first, walking peacefully on a street then, stopping and turning her head to say: “For our freedom.” (“*Wei le women de ziyou*”). But then, in time, I met more and more people asking me the same questions and making my optimism turn into a radical pessimism. I remember a very informed friend of mine coming up with the number of annual executions in China, some Amnesty reports, and tricky questions like: “Have you ever been to Tibet or Xinjiang?” One night, in Beijing, a Xingjiangnese Kazakh friend of mine was beaten by a group of Han, the main reason being that he was not Han. In that way, , pessimism reached the climax.

²¹³ Xiao Qiang, “Looking at the changes in China from a Human Rights Perspective”, in H. Thelle, *op. cit.*, p. 39.

²¹⁴ *Ziyou* is the Chinese term used to design *freedom* in the “Western sense”.

There is, however, a *more dynamic* way to look at phenomena in the world. Thus, I slipped into the wings of China human rights situation and found out what one usually calls a “work in progress”. So, let us imagine somebody would approach me today asking about human rights and democracy in China. I am happy to say that I have a different answer that goes as follows:

In China, no political change *versus* a “democracy on a ‘hard’ sand”²¹⁵ and no radical progress of the human rights situation can be expected if the country does not achieve its socialization process to human rights norms.²¹⁶ This process, in turn, can manifestly not be achieved using *any* mode of interaction at *anytime*. Human rights global polity’s *extensive* use of the “diplomacy of shame” has brought China on the international agenda but has also provoked the rising of a strong nationalism among the Chinese people that has reinforced the legitimacy of the Chinese leaders rather than weaken it. Shame has therefore been rather counterproductive in the case of China.

Dialogue, instead, proves to be constructive. Certainly its realization does not correspond to the “ideal-speech” we usually associate with the term “dialogue”. Neither is it a mere policy *tool*. Dialogue is first of all a *process* and a *mode of*

²¹⁵ For the expression “democracy on ‘hard’ sand”, I took inspiration from the title of an article by W.P. Alford, *Making A Goddess of Democracy from Loose Sand*. As a matter of fact, in 1980, Deng Xiaoping stated that “China has always been called a loose sheet of sand ... [Absent the Communist Party] China will retrogress into division and confusion and will then be unable to accomplish modernization.” For this quotation, see W.P. Alford, *op. cit.*, in A.A. An-Na’im (ed.), *Cross-Cultural Perspectives: A Quest for Consensus*, Philadelphia, University of Pennsylvania Press, 1992, pp. 65-80.

²¹⁶ On the relationship between human rights protection and democracy R. Jansen wrote: “Human Rights’ Protection and Democracy are not necessarily together forever, but certainly they are stronger when they are together. Democracy is not *necessarily* a prerequisite for the recognition of Human Rights”. Moreover, in a note, he adds: “This statement about the interdependence of Democracy and Human Rights Protection does not apply vice versa: a definition of Democracy has to imply Human Rights’ Protection.” Thus, since China has not yet accomplished the socialisation process to human rights norms, and since human rights are a prerequisite for democracy, the country is consequently, not yet *mature* for democracy. Moreover, a factor that certainly contributes to the *immaturity* of democracy in China has been identified in the absence of participant culture or political culture. In his essay on participant culture in China, Torstein Hjellum argues that, although Chinese people are very aware of the functioning of the government and can be very critical toward it, they do not see themselves as agents of history or of oppositional political alternatives. Thus, he concludes that, “there is a long way to go before a change in the political system can begin to be based on movements among the people”. “Changes in the people’s minds in their orientations toward the polity” are crucial for democracy, they are part of the “hard” sand on which a goddess of democracy should be built.

For the comments above see the following literature:

Ralf Jansen, *From Portugal To China: Democracy and Human Rights protection in Macao after 20 December 1999*, in Annalisa Creta et al., *European Master’s Degree in Human Rights and Democratisation: Awarded Theses of the Academic Year 1998-1999*, Marsilio, Venezia, 2001, pp. 193-195.

interaction. Moreover, dialogue is part of diplomacy whereby is possible to reach a common understanding on human rights that, in a just world where each country has a say, should be the precondition to their implementation.

However, dialogue as institutionalized in numerous bilateral dialogues with China cannot be said to always reflect this high moral intent. Consequently, a lot of criticism has risen against these dialogues as a whole. That same criticism, however, I found to be grounded on false assumptions and most important, on the lack of understanding of what dialogue truly means, is, and aims at.

Thus, I argued in defence of *some* dialogues whose effectiveness (i.e. “tangible” results), in my view, lies in what I call “change in China human rights *cognitive* behaviour” i.e. the precondition for a change of China behaviour *in praxis*. Dialogues such as these are likely to become the only framework in which the validation of human rights universality is possible. As suggested by the constructivist theory indeed, universality of validity has rather to be understood as a global unfinished project until countries like China, for instance, have accomplished their ongoing process of legitimation of human rights norms. As “paradigms for achieving universalism of international human rights”²¹⁷, these dialogues play a crucial role for future developments in terms of change in China human rights behaviour *in praxis* i.e. human rights situation on the ground. Thus, following the logic implicit in the relationship between human rights and democracy whereby human rights are a *prerequisite* for democracy and not *vice versa*, dialogues have also the potential to set up the basis for democracy in China.

As far as the enhancement of these dialogues is concerned, I share the view of some scholars who argue that both contextual knowledge and language skills are crucial factors for a successful dialogue. As J. Habermas has recently suggested: “Lorsque *la communication est perturbée*, lorsque la compréhension ne se réalise pas

Torstein Hjellum, *Is a Participant Culture Emerging in China?*, in K.E. Brødsgaard, D. Strand (eds.), *Reconstructing Twentieth- Century China: State Control, Civil Society, and National Identity*, New York, Oxford University Press, 1998, pp. 216-250.

²¹⁷ See, Mashood A. Baderin, Dialogue among Civilisations as a Paradigm for Achieving Universalism in International Human Rights: a Case Study with Islamic Law, in «Asia-Pacific journal on human rights and the law», vol. 2, n. 2, 2001, pp. 1-41.

ou mal ou lorsque la duplicité ou la duperie s'en mêlent, des conflits apparaissent.”²¹⁸ In a framework such as a bilateral dialogue, it is certainly very useful and practical to know Chinese language but it is not enough. To “speak” a language is one thing; to “communicate” in the same language, is another. While the former just refers to the fact of being able to speak a given language, the latter implies that the speaker knows how to produce language (i.e. linguistic competence) and how to use the language that is, how to integrate the language with extra-linguistic elements (i.e. extra-linguistic competence).²¹⁹ To master a language in both its linguistic and extra-linguistic competences makes dialogue partners able to be “interpretative” about what they hear from each other. This means that in each other arguments, they can distinguish between what is politicized and what is not, and between what is defensible and what is not. In that sense, bilateral dialogues should be enhanced and can actually be enhanced with the already existing forces that only have to be activated.

In taking the defence of dialogue, however, I do not deny the relevance of what has been done in the past, especially by INGOs. A combination of dialogue and pressure is not only possible but also crucial for the life of dialogue itself. Many Chinese scholars have admitted in fact, that without pressure, there would be no dialogue. Still, it should be possible to avoid confrontation in terms of shame. One hundred per cent of the Chinese academics or experts I recently met in Beijing claimed: “*Yao duihua, buyao duikang!*” i.e. “We should dialogue and not confront ourselves!”

Some Western scholars share the same view of their Chinese colleagues but show even more concern in their statements. In particular, M. Freeman states:

²¹⁸ See the interview by Giovanna Borradori to Jürgen Habermas in, *Qu'est-ce que le terrorisme?*, «Le Monde diplomatique», Février 2004 as reproduced at <http://www.monde-diplomatique.fr/2004/02/HABERMAS/11007> (06.07.2004).

²¹⁹ Linguistic competence includes the following micro-competences: phonological competence, morphosyntactic competence, lexical competence, textual competence and graphemic competence. Extra-linguistic competence includes all those codes that are used with language like paralinguistic competence (which refers to elements as language intonation, tune, and speed used to modify the meaning or stress the meaning of the linguistic message), gestural expressiveness and very specific competences as olfactory competence!

“The conversation of mankind must continue [...]
If we formulate our problems in terms of a ‘clash of civilizations’ [...],
We shall find ourselves [...]
In the tunnel
At the end
Of the
Light.”²²⁰

I very much understand and share his concern. That is why I wrote what I wrote, optimistically hoping that words do matter.

Finally, it is my claim that we not only should, but *have to*, *have* dialogue. It is a moral responsibility we bear as it is also our own responsibility if *Cartier* has much more appeal than human rights on the Chinese people or if *Pepsi* has more taste...

²²⁰ See Michael Freeman, *Universal Rights and Particular Cultures*, in Michael Jacobsen, Ole Bruun (eds.), *op. cit.*, p. 56.

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b. Websites:

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EU-China Network: <http://www.eu-china-humanrights.org/welcome/page0=php>

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<http://www.europa.eu.int/comm/external-relations/china/intro/index.htm>

3. Seminars:

- “When States Say No to Human Rights” held by Lone Lindholt, Senior Researcher at the Danish Institute for Human Rights, Copenhagen, Tuesday, 9 March 2004.
- EU-China Human Rights Dialogue seminar on “Judicial Guarantees of a Fair Trial” and “Capacity Building of NGOs”, Venice, December 15-16, 2003.
- Forum for China and Human Rights 8: Legal Aid in China, DIHR, March 26, 2004.

4. Interviews:

- The China Unit at the Danish Institute for Human Rights:

Morten Kjaerum: Director of the DIHR and European participant at the EU-China Legal and Judicial Cooperation Programme.

Anne-Marie Tracholt: Student; Teaching Assistant in China.

Diego Bang: Director of the Education Department at the DIHR; Chinese Police Training.

Hatla Thelle: Researcher and permanent Human Rights Advisor in Beijing.

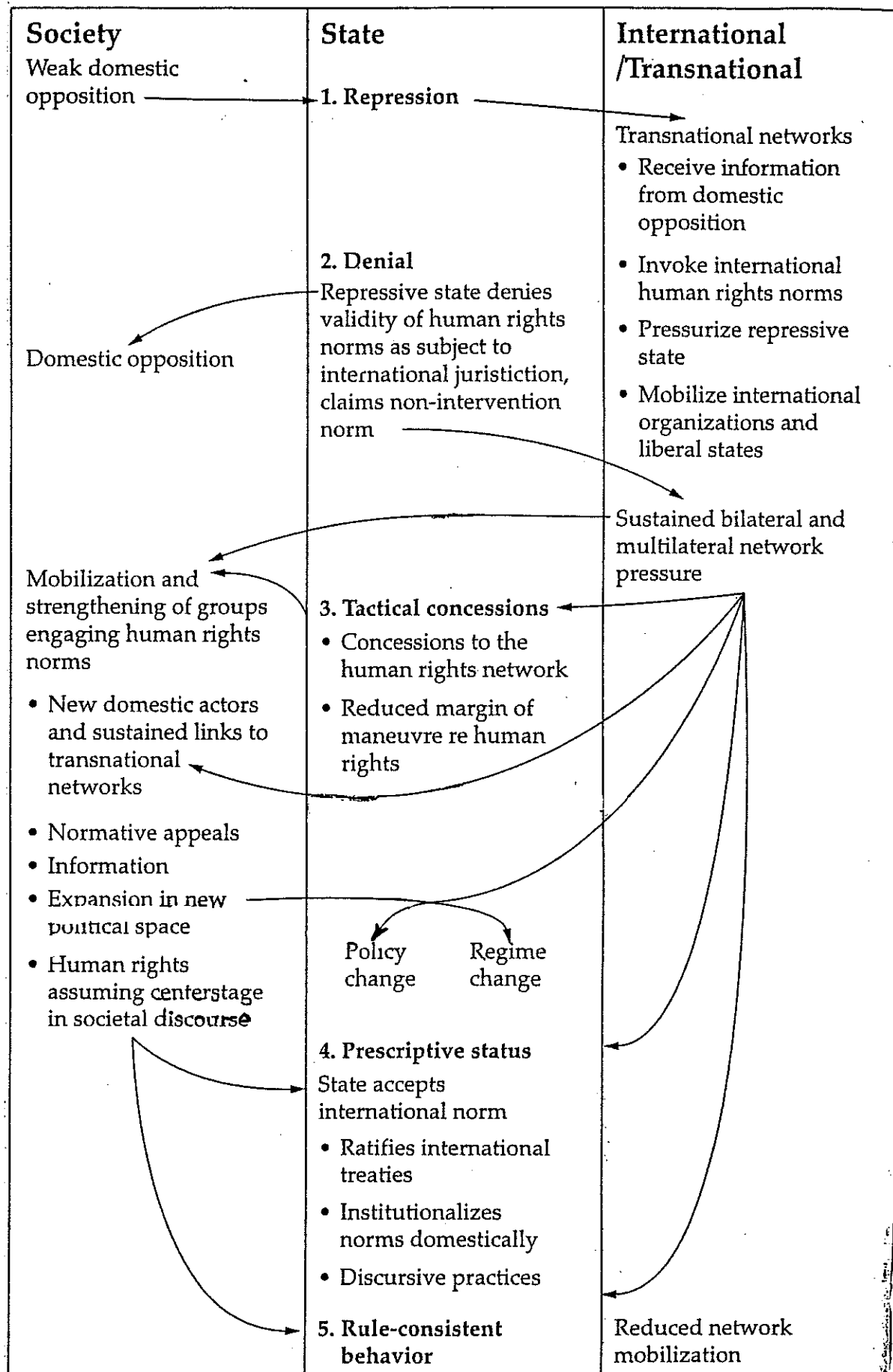
Isi Foighel: Researcher and European participant at the EU-China Legal and Judicial Cooperation Programme.

Lis Dundhale: Project Manager.

Lone Lindholt: Senior Researcher; Professor of Human Rights Law in China.

- Chinese participants in the EU-China experts' dialogue and in the Danish-Chinese dialogue and cooperation (Chinese Academy of Social Sciences, Institute of Law, Beijing).
- Li Buyun: Professor and Director of the Human Rights Centre at the Hunan University, Institute of Law.
- Liu Xiaobing: Ph.D in Law at Tianjin University.

ANNEX



The "spiral model" of human rights change