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## Introduction

The Universal Declaration of Human Rights, adopted in 1948, aimed to provide the protection of human rights for all human beings, regardless of the state their nationality, race, ideology or sex. On the basis of these ideas, the General Assembly of the United Nations proclaimed the declaration as ‘a common standard of achievement for all peoples and all nations’, in order to ‘promote respect for such rights and freedoms and secure their universal and effective recognition’.<sup>2</sup> The declaration did not include cultural diversity clauses.<sup>3</sup>

Human rights became an important subject in international diplomacy and trade from 1948 onwards. Although many countries, including China, adopted the Universal Declaration of Human Rights, protecting human rights has proved itself to be problematic. It is important to establish the exact definition of the term ‘human rights’. The contemporary content of the term ‘human rights’ is much debated upon, but has been argued to include civil, political, economic, social and cultural aspects as well as notions such as sovereignty and self-determination.<sup>4</sup> However, from 1948 onwards, human rights have become linked with other issues, such as trade and diplomacy.<sup>5</sup>

The subject of this thesis is the human rights situation in China, and the pressure that the international society puts on China to stimulate change of the human rights policy. According to many scholars, the state of China presents the world’s most severe human rights problems, both in number and severity.<sup>6</sup> Besides the Universal Declaration of Human Rights, China signed another important human rights treaty: the International Covenant on Civil and Political Rights (ICCPR) in 1988.<sup>7</sup> However, signatories of the Covenant are not legally required to respect the content of the treaty. Only states that have also ratified the Covenant are required to do so. Hence, even though the Chinese state is not legally required to live up to the content of the treaty, China is still accused of constantly violating the civil and political rights mentioned in the treaty.

This thesis focuses on the development of human rights and the international pressure put on China in the period from 1989 until 2000. There are four reasons for the choice of this specific

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<sup>2</sup> Hector Gros Espiel, ‘Universality of Human Rights and Cultural Dignity’, (UNESCO 1998), 525.

<sup>3</sup> Gros Espiel, ‘Universality of Human Rights’, 526.

<sup>4</sup> Michael C. Davis (ed.), *Human Rights and Chinese Values* (Oxford 1995), 3.

<sup>5</sup> Andrew J. Nathan, ‘Human Rights in Chinese Foreign Policy’, *China Quarterly* (1994) 140 622- 644, 622.

<sup>6</sup> Steven W. Mosher, ‘Human Rights in the New China’, *Society* 23 (1986) 2 28-34.

<sup>7</sup> ‘China’s growing prominence in the Multilateral Human Rights System’, *China Rights Forum* 23 (2007).

time period. The first reason is that the West<sup>8</sup> did not put much effort into enhancing human rights in China before and during the Cold War. This was due to the fact that the West regarded China as a counter-weight to the Soviet Union. After the Cold War, China became a main target of Western interference. The second reason for this emerging interference was the Tiananmen Square massacre of 1989. The year of 1989 hosted a series of demonstrations in Beijing by students and intellectuals. They demonstrated for economic and political reform and liberalizations. The Chinese government responded on the 4<sup>th</sup> of June 1989 by sending tanks and troops to the square, killing many protesters. These actions were severely condemned by the international community. After these events the Chinese government became the target of criticism on the issue of human rights.

The third reason is that a renewed and global interest in human rights came to life in the 1990s. In 1993 the Vienna World Conference on Human Rights was organized, and in the lead to this event the drafting of the 1993 Bangkok declaration took place.<sup>9</sup> In this declaration the representatives of over 30 Asian and Middle Eastern governments expressed their doubts on the compliance of universal human rights with (Asian) cultural values.<sup>10</sup> The Bangkok declaration provoked a discussion on whether human rights could and should be applied equally in every country.<sup>11</sup>

The fourth and final reason is that in the 1990s China's economy began to grow significantly. Some scholars share the opinion that the West only became interested in human rights enhancement in China, after the latter developed itself militarily and economically. For example, David P. Forsythe, a leading scholar in the field of international relations, believes that the Western attitude towards China is a realist effort to weaken the economic power of China.<sup>12</sup>

For a better understanding of the human rights situation in China, the history of the development of China should be highlighted. Therefore, in the next paragraph, a short rendition of the Chinese history will be given.

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<sup>8</sup> When spoken of 'The West' in this thesis, intended are the United States government, the European Union and all of the EU member states. Excluded are Australia, New Zealand, Canada and non-EU members such as Norway and Switzerland.

<sup>9</sup> United Nations Human Rights, World Conference on Human Rights, 14-25 June 1993, Vienna, Austria. Excerpted from: DPI /1394/Rev.1/HR-95-93241, April 1995, <http://www.ohchr.org/EN/ABOUTUS/Pages/ViennaWC.aspx>.

<sup>10</sup> 'The relative importance of different kind of rights' <http://www.pnet.ids.ac.uk/guides/rights/importance.htm>

<sup>11</sup> Michael C. Davis, *Human Rights and Chinese Values*, 3.

<sup>12</sup> David P. Forsythe, 'Human Rights and China: A Review Essay', *Human Rights Quarterly* 23 (2001) 4 1098-1105, 1099.

## The human rights situation in China: a short history

China's communist regime came to power in 1949, after many years of foreign and civil warfare. The leader of the Chinese Communist Party, Mao Zedong took complete political control over the Chinese population by applying his version of the Marxist-Leninist system according to the Soviet model. In this system, the position of Communist party was supreme and infallible. The Chinese Communist party was an elite group that represented only four percent of the Chinese population. Policy and decision-making were performed by the party and were applied top-down.<sup>13</sup>

Human rights violations like repressing free speech and political freedom can be related back to the Cultural Revolution, that Mao introduced in 1965. At that time poster writing and demonstrations were prohibited in order to suppress the existing opposition. Allowing expression of criticism of the regime was considered a threat to the political stability of the party and became a criminal offence.<sup>14</sup> Mao's rule ended with his death, yet the Communist regime survived. Deng Xiaoping was the successor of Mao.<sup>15</sup>

Curiously, in 1975 the right of putting up posters, along with the right of freedom of speech were guaranteed in the national constitution. Optimism rose amongst the Chinese population that with Deng in power, the Chinese government would head towards democracy. As it turned out however, Deng used the strategy of guaranteeing rights right before annulling them to weaken the opposition, just like Mao did. In 1980 Deng removed the rights he had guaranteed in the 1975 constitution from the 1980 constitution.<sup>16</sup> The assassination of dissident Wei Jingsheng proved that the regime of Deng Xiaoping had rejected democracy in its full form. In addition, the 'anti-spiritual pollution' movement came into existence in 1983. This movement prohibited everything associated with Western influences, like pop music, art, dance and pornography. The punishments were severe, people got sent to jail or to re-education camps.<sup>17</sup>

The increasing restrictions Deng Xiaoping implemented resulted in a demonstration of half a million Chinese citizens, protesting against the regime of Deng Xiaoping at the Tiananmen Square in Beijing in 1989. This demonstration was eventually beaten down by the Chinese government, killing thousands of protesters. What changed after this incident in 1989, is that China became subject of growing international concern. Initially, the main concern was focused on the question to what extent the political development in China would improve or deteriorate human rights development. Human rights became an important topic in Chinese foreign relations, especially in bilateral relations,

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<sup>13</sup> Copper, *'Human Rights in Post-Mao China'*, 23-25.

<sup>14</sup> Ibidem.

<sup>15</sup> Ibidem.

<sup>16</sup> Ibidem, 25-28.

<sup>17</sup> Ibidem.

and in interference reports of NGO's such as Amnesty International.<sup>18</sup> However, amongst Western governments no agreement was found on how to approach the Chinese government. There has been no final resolution within the international society, but many Western countries seem to apply a 'moral principle' of democracy.<sup>19</sup> This principle, especially present in the United States foreign policy, declares it a common responsibility of a democratic country to promote international human rights protection globally.<sup>20</sup> The United States hereby uses a different strategy than the European Union.

## Research question and structure

The subject of analysis in this thesis is the attitude of the Western community towards the Chinese government. Are moral, political or economic motives dominant in relations between the West and China? It is important to analyze of which elements the international political and economic pressure on China consists. Therefore, the research question in this thesis is:

*'To what extent was the West<sup>21</sup> applying political and economic pressure on China to change the Chinese human rights policy from 1989 to 2000, what elements did this pressure consist of, and was this pressure used as an instrument to pursue other interests?'*

The term 'the West' refers to two main actors. The former being the United States government, the latter being the European Union.

An answer to the research question is elaborated upon in three chapters. The first chapter will outline the general Chinese history in the timeframe of 1949 to 2000. This chapter will analyze to what extent the human rights situation in China is improving or deteriorating and outlines which arguments the Chinese government uses to defend itself concerning to human rights violations. The second chapter will address human rights theory and will discuss to what extent human rights are culture bound. Furthermore it will discuss the main theories on human rights, such as Asian values theory, universalism and cultural relativism. The second chapter will contain the theoretical framework of this thesis. The third chapter will attempt to answer part of the research question, being: 'To what extent is the West applying political and economic pressure on China to change its human rights policy and which elements does this pressure consist of?'

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<sup>18</sup> Zhu Feng, 'Human Rights and the Political Development of Contemporary China, 1979-1994', in: Michael C. Davis (ed.) , *Human Rights and Chinese Values* (Oxford 1995) 116-143, 117.

<sup>19</sup> Zhu Feng, 'Political Development of Contemporary China', 117.

<sup>20</sup> Ibidem.

<sup>21</sup> Repetition: Intended are the United States government, the European Union and all of its member states during 1989 and 2000.

It is important to stress out that the behavior of the European member states does not always comply with the guidelines set by the European Union. For that reason in the third paragraph of the third chapter the behavior of the Netherlands, one of the EU member states, will be analyzed. The Dutch case functions as a case study which demonstrates the inconsistency that can occur between the individual political conduct of member states and the aspirations of the Common Foreign and Security Policy (CFSP) of the EU.

## **Scientific relevance and Historiographical framework**

This paper is primarily based on literature studies on human rights theory, foreign policy and international relations. Furthermore, policy reports of the United States government and European Union are used as a source of information, as well as digital archives and several press releases found through the database Lexis Nexis.

There has been a surge of scientific publications on the topic of Asia and human rights during the 1990s. Especially the Asian values debate peaked in the 1990s. Scholars were fascinated by the economic growth of Asian states, and wanted to unravel the secret behind it. After the year 2000, the Asian values debate lost most of its significance. This is also visible in scientific literature, the number of publications on this subject declined after the year 2000. In this decline of interest is where the relevance of this thesis is to be found. Although the number of publications has declined, the impact on this matter in international politics has not. The issue has not been solved; China is still being accused of severe violation of human rights.

The bibliography also reflects that most scientific publications are written by Western scholars. Within their analysis, these scholars attempt to interpret the human rights situation according to Western norms and values. They try to create a theoretical framework which is able to explain the differences between the Chinese political system and that of the West. This way, many theories discussed in the second chapter were developed, such as Asian values theory and cultural relativism. Moreover, the question whether human rights should be universal or culturally diverse has been point of ongoing debate ever since the Universal Declaration of Human Rights was adopted in 1948. It is the central point in the paradigm of international human rights law, and a point of continuing controversy.<sup>22</sup> At the same time, the issue of human rights is linked with another important issue in international relations: sovereignty. As a consequence of the international protection of human rights, countries have to give up part of their sovereignty. China is not willing to do so and considers human rights a domestic affair. Should this be China's own decision, or is China's reserved attitude in which liberalism is becoming increasingly important no longer acceptable?

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<sup>22</sup> Gros Espiel, 'Universality of Human Rights', 525.

Perhaps too little research has been done about the opposite interaction between the West and China in the human rights dialogue. Not the actual interest in Chinese human rights theory is at stake here, but the reason behind the interest. Why is China such a source of fascination to the West? It is not the only country in the world in which human rights are being violated. Yet, it is a target of international pressure deriving from the countries in the West, such as the United States and countries in the European Union. China is becoming a growingly important actor in the international community; therefore the topic of this research assumes much relevance.

# Chapter 1

## The History of Chinese Human Rights Development

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*'What are human rights? They are the rights of how many people, of a majority, a minority, or of all the people? What the West calls human rights and what we call human rights are two different things, with different standpoints.'*<sup>23</sup> (Deng Xiaoping)

Ever since Deng Xiaoping opened up and developed China's economy, many scholars in the West assumed that it would be just a matter of time for political reform to follow. Experience led to the presumption that economic liberalization leads to political liberalization which eventually leads to democracy. The philosophy behind this reasoning is that economic development produces and educates the middle class, which sooner or later takes control over its own fate. Eventually repressive governments will have to give in to the constant pressure.<sup>24</sup>

However, this assumption has not yet proven itself true concerning the situation in China. The communist authoritarian regime in China is still in power, and it seems as if this situation is not likely to change any time soon. The Chinese government is evading all political pressure to push back on its political control. It is true that income per capita leads to increases in the ability of citizens to obtain political power, but authoritarian governments have increased their ability to avoid these demands.<sup>25</sup>

This chapter analyzes the authoritarian regime in China. It is obvious that Western scholars are fascinated by the economic growth of China and by their contrasting political system. However, how authoritarian is the Chinese regime actually? To what extent is the situation on the field of human rights in China changing for the better or worse? The analysis whether the human rights situation in China is improving or deteriorating is elaborated upon in three paragraphs. The first paragraph addresses a short rendition of China's history from 1949 until 1989. The second paragraph will describe the human rights situation in China after 1989. The third paragraph analyzes to what extent the human rights situation has improved or deteriorated from 1989 onwards.

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<sup>23</sup> Ann Kent, *Between Freedom and Subsistence: China and Human Rights* (Hong Kong 1993) 51.

<sup>24</sup> Bruce Bueno de Mesquita and George Downs, 'Development and Democracy', *Foreign Affairs* 84 (2005) 5 77-86, 77.

<sup>25</sup> Bueno de Mesquita and Downs, 'Development and Democracy', 77.

## §1.1: China's political history 1949- 1989

China's communist regime came to power in 1949, after many years of foreign and civil warfare. The unification of the Chinese nation was a welcome relief from the destructive effects of years of wartime, damaging the economy and disrupting social order. A crucial factor of change became the conjunction of the impoverished condition of the Chinese citizens with that of the Chinese state.<sup>26</sup> The leader of the Chinese Communist Party, Mao Zedong took complete political control over the Chinese population by applying a Marxist-Leninist system according to the Soviet model. In this model, the Communist party was supreme, infallible and only represented about four percent of the Chinese population.<sup>27</sup> The People's Republic of China was characterized as a 'people's democratic dictatorship led by the working class and based on the alliance of workers and peasants'.<sup>28</sup> The National People's Congress (NPC) was the highest organ of state authority and had power of legislation and amendment.<sup>29</sup>

A new constitution was designed in 1954, even though earlier legislation had already limited civil liberties. The rights in the 1954 constitution corresponded with the authoritarian reality.<sup>30</sup> The next constitution was drafted in 1975. This constitution was filled with Maoist ideas such as mass politics and centrality of the party, also due to the creation of the Cultural Revolution. With the drafting of the 1975 constitution the rights created in the 1954 constitution were annulled, such as the freedom of resistance, religion, and scientific research. The constitution deleted the provision of equality before the law, the right to a public trial and the right of defense. Furthermore, the 1975 constitution introduced mass trials for 'major counter-revolutionary criminal cases' with the words 'the Communist party of China is the core of the leadership of the whole Chinese people.'<sup>31</sup>

In 1976 Mao Zedong passed away. This automatically ended the Cultural Revolution, and the process of economic liberalization was initiated by his successor Deng Xiaoping. In 1978 Xiaoping initiated a modernization process intended to reconstruct the economic, social and political system. However, this modernization did not have beneficial effects on the human rights situation in China.<sup>32</sup> The deterioration of human rights was the result of multiple complex changes due to economic problems at that time. One of the consequences was the implementation of the one-child policy in the 1982 constitution. Article 49 of the constitution stated that 'both husbands and wives have the

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<sup>26</sup> Kent, *Between Freedom and Subsistence*, 53.

<sup>27</sup> Copper, 'Human Rights in Post-Mao China', 23-25.

<sup>28</sup> Kent, *Between Freedom and Subsistence*, 54.

<sup>29</sup> Ibidem.

<sup>30</sup> Ibidem, 56.

<sup>31</sup> Ibidem, 55-57.

<sup>32</sup> Ibidem, 79.

duty to practice family planning'.<sup>33</sup> The new constitution also contained other articles canceling guaranteed rights, such as 'the four basic principles'. According to these four principles, democratic ideas could not stand in the way of socialism.<sup>34</sup>

Even though amendments in the Chinese constitution slowly but constantly limited most of the civil liberties of the Chinese citizens, other liberties were introduced to the Chinese by the increasing connections with the West like tourism, books and international news.<sup>35</sup> In this period of liberalization, the right to wear fashionable clothes, travel, and the right to have hobbies made a grave contrast with the Mao years. Throughout this decade, Chinese intellectuals began to blame the state for not enhancing civil rights in the constitution.<sup>36</sup> This resulted in demonstrations, such as the Democracy Wall movement.<sup>37</sup>

According to Ann Kent, an Australian sinologist, these movements can be considered as symptoms of an increased confidence in improving civil rights.<sup>38</sup> Also in politics the vibe of liberalization was sensible. At the Thirteenth Party Congress in 1987 the agenda included items such as the separation of Party and state, governmental reform and strengthening of the legal system. In the opening speech of this congress, General Party Secretary Zhao Ziyang said that the government should guarantee citizen's rights and freedoms and enact laws governing the press and publications, association, and freedom of religion. He also noted that it was necessary to respect the will of the voters and to ensure that they would have more freedoms in elections.<sup>39</sup>

The year 1989 is regarded as a turning point in the attitude of the Chinese regime. The year of 1989 hosted a series of demonstrations in Beijing by students and intellectuals. They demonstrated for economic and political reform. The Chinese government reacted to these protests by sending tanks and troops to the Tiananmen Square on the fourth of June 1989, killing many protesters. This reaction was severely condemned by the international community. After the Tiananmen Square incident of 1989 the Chinese government became target of increasing criticism on the issue of human rights.

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<sup>33</sup> Kent, *Between Freedom and Subsistence*, 86.

<sup>34</sup> Ibidem, 86 -87.

<sup>35</sup> Ibidem, 96.

<sup>36</sup> Ibidem, 97-98.

<sup>37</sup> The democracy wall was a wall that ran through Beijing on which citizens wrote messages to express their dissent to the political system.

<sup>38</sup> Kent, *Between Freedom and Subsistence*, 98.

<sup>39</sup> Ibidem, 99.

## §1.2: China's human rights situation 1989-2000

The People's Republic of China joined the United Nations (UN) in 1971, replacing the membership of the Taiwan bound Republic of China led by Chiang Kai-Shek. By joining the UN, the People's Republic of China in theory became a partner to all basic human rights principles as stated in the UN Charter. China signed, but did not ratify the 1966 International Covenant on Civil and Political Rights (ICCPR).<sup>40</sup>

Furthermore, China signed, ratified and acceded eight other human rights conventions, being the International Convention on the Elimination of all Forms of Racial Discrimination, The International Convention on the Suppression and Punishment of the Crime of Apartheid, the Convention on the Elimination of all Forms of Discrimination against Women, the Convention on the Prevention and Punishment of the Crime of Genocide, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, the Convention Relating to the Status of Refugees, the Protocol Relating to the Status of Refugees and, most importantly, the International Covenant on Economic, Social and Cultural Rights (ICESCR).<sup>41</sup> Moreover, China joined the UN Human Rights Commission, the sub-commission on Prevention of Discrimination and Protection of Minorities, the Panel of Human Rights Experts as well as the Commission on the Status of Women.<sup>42</sup>

In order to analyze the enforcement of the rights mentioned in these treaties, several organizations took care of registering and reporting the human rights violations in China. In the 1999 US government State report on China's human rights situation stated that China violated several principles, and, above all the integrity of the individual. The report states:

In February a domestic publication reported that a local government worker, suspected of embezzlement, died after 29 hours of police interrogation and torture. There were reports that persons held in custody and repatriation centers (where persons may be detained administratively to "protect urban social order" were beaten while detained and that some have died as a result.<sup>43</sup>

This is in conflict with the ratified Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. However, China ratified this convention under Article 28, meaning that

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<sup>40</sup> United Nations Treaties Collection. Chapter IV. Human Rights. International Covenant on Civil and Political Rights. [http://treaties.un.org/Pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=1&mtdsg\\_no=IV-4&chapter=4&lang=en#Participants](http://treaties.un.org/Pages/ShowMTDSGDetails.aspx?src=UNTSOnline&tabid=1&mtdsg_no=IV-4&chapter=4&lang=en#Participants).

<sup>41</sup> United Nations Treaties Collection: <http://treaties.un.org>

<sup>42</sup> United Nations Treaties Collection: <http://treaties.un.org>

<sup>43</sup> U.S. Department of State. Country Reports on Human Rights Practices. Bureau of Democracy, Human Rights and Labor. 1999. <http://www.state.gov/g/drl/rls/hrrpt/1999/284.htm>

the government does not allow investigations of torture within Chinese boundaries.<sup>44</sup> Also other principles were being violated according to this report, such as freedom of speech and press, freedom of movement, denial of a fair trial, discrimination of minorities, the freedom of religion and the freedom of association (like the Tiananmen Square incident). The Chinese Constitution provides for the right of freedom of association; however, the government restricts this right in practice.<sup>45</sup> Another issue is that women in China are allowed to have only a single child. Central government policy legally prohibits the use of force in order to enhance this policy, but there have been cases documented in which government officials have used coercion like forced abortion or sterilization on women to meet these government goals.<sup>46</sup>

In contrast to civil and political rights, the Chinese constitution guarantees the protection of economic, social and cultural rights incorporated in every major category of the International Covenant on Economic, Social and Cultural Rights (ICESCR), which has been signed and ratified by the Chinese state.<sup>47</sup> Rights such as fair wages, equal remuneration, safe working conditions, rest, social security, education and health care had their echo in China's first three post-1949 constitutions, even though the rights were not guaranteed for all, but only to the working class.<sup>48</sup> The Chinese constitution did not include the social and economic right to form trade unions and to strike.

According to Ann Kent, the concept of citizenship in communist China was not defined by access to civil and political rights such as in Western societies, but in terms of economic rights, such as access to work.<sup>49</sup> A research project of the China Economic System Reform Research Institute stated in 1986: 'China's social security system is actually not a 'social system'. There is no national system covering pensions or medical care. Instead, China's social security system is largely realized by means of employment. Anyone will have welfare benefits and security so long as he or she gets a job.'<sup>50</sup>

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<sup>44</sup> Signatures to the UN Convention against Torture. <http://www.hrweb.org/legal/catsigs.html>.

<sup>45</sup> U.S. Department of State. Country Reports on Human Rights Practices. Bureau of Democracy, Human Rights and Labor. 1999. <http://www.state.gov/g/drl/rls/hrrpt/1999/284.htm>

<sup>46</sup> U.S. Department of State. Country Reports on Human Rights Practices. Bureau of Democracy, Human Rights and Labor. 1999. <http://www.state.gov/g/drl/rls/hrrpt/1999/284.htm>

<sup>47</sup> United Nations Treaties Collection. Chapter IV. Human Rights. International Covenant on Economic, Social and Cultural Rights. [http://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&lang=en&mtds\\_g\\_no=IV-3&src=TREATY](http://treaties.un.org/Pages/ViewDetails.aspx?chapter=4&lang=en&mtds_g_no=IV-3&src=TREATY)

<sup>48</sup> Kent, *Between Freedom and Subsistence*, 68.

<sup>49</sup> Ibidem.

<sup>50</sup> Ibidem, 69.

Also the right to education has been enhanced in China. A report of the World Bank mentioned:

The development of education in China has been impressive, despite the disruption during the Cultural Revolution. The number of primary school graduates has increased by 305 million from the 1949 figure of 70 million. (...) Two out of three Chinese adults are now literate. (...) These attempts have contributed to China's impressive development of non-formal education opportunities.<sup>51</sup>

Membership of trade unions was encouraged as well, even though these trade unions did not comply with the International Labour Organization (ILO) standards. In these trade unions there was no right of industrial bargaining, no right of association, and no right to leave a job and seek other employment.<sup>52</sup> For this reason the International Confederation of Free Trade Unions brought a complaint to the ILO against the Government in 1998, alleging the detention of trade unionists and violations of the right to organize. The Government denied the allegations in its official response to the ILO in March.<sup>53</sup> Moreover, the Chinese government reduced the national standard workweek from 44 hours to 40 hours in 1995. The Chinese labor law does not allow overtime work of more than 3 hours a day. Nevertheless, occupational health and safety remain problematic.

### **§1.3: Has progress been made?**

Has any progress been made on the area of human rights protection? Has the human rights situation in China improved, or has it been deteriorating?

Even though the timeframe of the research question runs from 1989 to 2000, the 2011 Human Rights Watch report shows an interesting analysis on the Chinese human rights development. This report has an added value in order to create an overall vision on the Chinese human rights development since 1989. The 2011 Human Rights Watch report opens with the following phrase:

Imprisoned dissident Liu Xiaobo's selection as the 2010 Nobel Peace Prize winner in October was a defining moment for China's human rights movement. It also focused global attention on the extent of human rights violations in China, and on its unreformed, authoritarian political system as it emerges as a world power.<sup>54</sup>

Human Rights Watch thus concludes that the extent of human rights violations in China remains unchanged and unreformed. Furthermore, in November 2008 the UN Committee Against Torture

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<sup>51</sup> Kent, *Between Freedom and Subsistence*, 76.

<sup>52</sup> *Ibidem*, 73.

<sup>53</sup> U.S. Department of State. Country Reports on Human Rights Practices. Bureau of Democracy, Human Rights and Labor. 1999. <http://www.state.gov/g/drl/rls/hrrpt/1999/284.htm>

<sup>54</sup> Human Rights Watch. World Report 2011. 1-624, 303.

(UNCAT) expressed its concern about the use of torture within China and especially the mistreats of suspects in police custody to coerce confessions.<sup>55</sup> These are problems that have been acknowledged before, such as in the US State report of 1999. The difference is that the UNCAT acknowledged the efforts the Chinese government made to address the exertion of torture in the criminal justice system.<sup>56</sup> Another grave problem is the revelation that political activists, petitioners, and underground religious believers are being sent to mental health facilities. From 1998 to 2010, more than 40.000 persons were committed to mental institutions.<sup>57</sup>

On the other hand, more than in previous decades, China became open to human rights dialogue and Western interference. According to the 2011 Human Rights Watch report, awareness is growing slowly amongst the Chinese citizens. Also legal reforms are coming up. In August 2010 the government announced a draft amendment to China's criminal law that would eliminate the death penalty for 'economy-related non-violent offences'. However, in September a member of the Legal Affairs Committee announced the government would not pursue on this amendment.<sup>58</sup>

Furthermore the situation on migrant and labor rights is slightly better. Independent labor unions are still banned, but labor activism exists amongst mainly migrant workers. Moreover, the Chinese government promised to abolish the *hukou* system in 2010. According to this system, access to education and healthcare is granted to Chinese workers, but it is related to the place of birth. When citizens move elsewhere, they are denied access to these services.<sup>59</sup>

Over a dozen countries at this moment are trying to create a human rights dialogue with the Chinese government, few of these discussions produced successful outcomes.<sup>60</sup> Hence, the attitude of the Chinese government is quite ambiguous. The position of China within the United Nations is improving slowly, as well as the international human rights dialogue China is creating. Yet, it seems like there are problems with the implementation of suggestions being made within the UN or by Western governments.

Therefore, it could be concluded that the human rights situation in China has improved, even though these improvements have been minimal. Progress has indeed been made since the 1990's, but only after the situation in the late 1970's and 1980's deteriorated.

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<sup>55</sup> Human Rights Watch. World Report 2010. 1-624, 303-314.

<sup>56</sup> Ibidem.

<sup>57</sup> Ibidem.

<sup>58</sup> China has a the highest number of executions in the World: 5.000 -8.000 a year

<sup>59</sup> Human Rights Watch. World Report 2010. 1-624, 303-314.

<sup>60</sup> Ibidem, 303-314.

## Chapter 2

# Human Rights Theory

### Introduction

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The prevailing international norms as established through international law set the standard of what the world community constitutes as human rights. However, a nation-state, as a sovereign unit, creates its definition of human rights through cultural relativism, domestic laws and ultimately through the relationship between the individuals within the nation-state and the nation-state itself.<sup>61</sup>

This citation by Erin E. Douglas demonstrates the discrepancy between the norms set by international human rights law and the practical implementation by nation states.<sup>62</sup> International human rights law functions as a legal guideline. However, despite the universal character of human rights law, nation states adjust and implement these guidelines according to their own interpretation. Hence, nation states create their own definition of human rights on the basis of the nation's cultural values.

Therefore, after outlining the different position that the Chinese government takes in setting human rights standards in chapter one, this second chapter will focus on analyzing the reasons for these differences. This chapter will elaborate upon the various views around the globe in definition and interpretation of human rights. The international human rights norms as established by the United Nations are meant to function as a protecting mechanism for every citizen worldwide, regardless of their nationality, race, gender, age, religion or sexual orientation. However, the implementation of these universal norms creates global debate, since some countries consider human rights a domestic affair. To what extent do countries share values, norms and principles?

Hence, this chapter serves to demonstrate the global discussion and misunderstandings on the topic of what human rights are and what human rights should accomplish. The various theories mentioned in this chapter bridge the gap between the status quo on Chinese human rights violations and signed and ratified UN treaties mentioned in chapter 1 on the one hand, and the measures the West has implemented in order to enforce and stimulate improvement of human rights in China mentioned in chapter 3 on the other hand. In order to fully understand the choices that were made by Western governments in the 1990s, it is necessary to outline the reasoning behind the foreign policies of the West. The

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<sup>61</sup> Erin E. Douglas, 'The Struggle for Human Rights Versus Stability: The Chinese Communist Party and Western Values Clash', *Denv. J. International Law & Policy* 29 (2001) 2 151-178, 151.

<sup>62</sup> E. Douglas, 'The Struggle for Human Rights', 151-178.

research question in this chapter will be as following: ‘What is the human rights theoretical paradigm in the West and what elements does it consist of? In order to answer this question, this chapter will be divided in three paragraphs. The first paragraph will highlight universalism and cultural relativism, the two main contrasting theories on human rights. The second paragraph will argue whether rights are culture bound, in order to decide whether the debate between universalism and cultural relativism is relevant, and to what extent a cultural approach towards human rights is feasible. The third paragraph will elaborate on the question to what economic interests play a role in pressuring China to enforce human rights enhancement.

## **§2.1: Universalism versus Cultural relativism**

### **2.1.1 Universalism**

As former EU commissioner for External Relations Benita Ferrero-Waldner stated:

There is no greater challenge for Europe than to understand the dramatic rise of China and to forge closer ties with it. But what do Brussels and Beijing mean when they talk of a ‘strategic partnership’? To what extent do they share the same conceptual ideas and principles?<sup>63</sup>

The first human rights treaties were drafted after the foundation of the United Nations. The Universal Declaration of Human Rights<sup>64</sup> has been described as ‘a transitional instrument somewhere between a legal and moral ordering.’ The declaration contains thirty articles that proclaim standards of achievements for all people and all nations regarding human rights. This declaration established the foundation for a universal human rights regime.<sup>65</sup>

What contributed to the choice of naming the declaration ‘universal’ is that Rene Cassin, one of the drafters of the Universal Declaration preferred the term universal over international in order to underline its universal character to the world.<sup>66</sup> The line of reasoning behind the term ‘universal’ was as following: ‘a common understanding of these rights and freedoms is of the greatest importance for the full realization of the pledge made by all the Member States of the United Nations to ensure universal respect for and observance of human rights and fundamental freedoms.’<sup>67</sup> Hereby the declaration implicitly recognized that all the member states would comply

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<sup>63</sup> Cameron, Fraser, ‘The Development of EU-China Relations’, in: Georg Wiessala, John Wilson and Pradeep Taneja (ed.), *The Context of EU-China Relations and The Human Rights Dilemma* (New York 2009) 47-65, 47.

<sup>64</sup> The Universal Declaration of Human Rights. Preamble. <http://www.un.org/en/documents/udhr/>

<sup>65</sup> E. Douglas, ‘The Struggle for Human Rights’, 154.

<sup>66</sup> Gros Espiel, ‘Universality of Human Rights’, 526.

<sup>67</sup> The Universal Declaration of Human Rights. Preamble paragraph 6&7 <http://www.un.org/en/documents/udhr/> in: Gros Espiel, ‘Universality of Human Rights’, 526.

with the substance of the declaration out of respect of its rights and duties.<sup>68</sup>

Hector Gross Espiell, author of the article 'Universality of human rights and cultural diversity', writes that initially the declaration was intended as a unilateral international text, functioning as a guideline for all countries. The declaration was supposed to function as a political and moral force, not as a legal binding text. However, the text became recognized as a normative source for international law through international practice such as action of the United Nations or of its member states.<sup>69</sup>

Some scholars argue that universalism is linked to Western values. Universalism is said to be linked to the historical foundations of the West, like individualist theories of John Locke and Emmanuel Kant. According to these scholars, the Enlightenment formed the ideological foundation for the Universal Declaration of Human Rights, due to the theme of liberation of mankind from all forms of authority and tradition of reason.<sup>70</sup>

### 2.1.2 Cultural relativism

The theory of cultural relativism was introduced in Asia in the 1990s as an opposition to the rigid definition of human rights created in the West. Opposed to universalism, the Chinese government took a cultural relativism perspective at heart concerning human rights enhancement. The main point of the cultural relativism philosophy is that the universal human rights standards should not override Chinese cultural values, economic development and Chinese sovereignty.<sup>71</sup>

According to Debra Delaet, professor of Politics and International Relations, the relativist criticism stems from the history of colonialism. Defenders of relativism see universalism as a form of moral superiority of (previous) colonizing countries. Relativists are afraid that despite the secular language of the Universal Declaration, human rights law is based on Christian values that tolerate and perhaps justify violence and the neglect of human suffering rather than to promote and protect the human dignity.<sup>72</sup> Moreover, relativists argue that Western societies share a conception of the human being as an autonomous individual whereas non-Western societies are more prone to have a conception of human beings as attached to group membership.<sup>73</sup>

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<sup>68</sup> Gros Espiell, 'Universality of Human Rights', 526.

<sup>69</sup> Ibidem, 400-600.

<sup>70</sup> Eliza Lee, 'Human Rights and Non-Western Values', in: Michael C. Davis (ed.), *Human Rights and Chinese Values* (Oxford 1995) 72-91, 74-75

<sup>71</sup> E. Douglas, 'The Struggle for Human Rights', 159.

<sup>72</sup> Debra L. Delaet, *The Global Struggle for Human Rights. Universal Principles in World Politics* (2006 Canada) 47.

<sup>73</sup> Debra Delaet, *The Global Struggle for Human Rights*, 47.

### 2.1.3 Cross-cultural approach

Somewhere in between universalism and cultural relativism stands the cross-cultural approach. The cross-cultural approach is based on the understanding that societies share certain fundamental beliefs and interests that can be shaped as being a framework for a common culture for human rights standards.<sup>74</sup>

Abdullahi Ahmed An-Na'im, author of the book *Cross-cultural universalism* argues that the lack in respecting cultural values is one of the main underlying causes of violations of human rights standards in the first place.<sup>75</sup> In other words, the observance of human rights could be improved by the enhancement of cultural norms. He thinks that not all individuals in society hold identical views on the meaning and implementation of human rights. An-Na'im agrees with Delaet that universalism is considered as a form of cultural imperialism, caused by colonialism, economic exploitation, ethnocentricity or political subjugation. External imposition is not a solution. According to An-Na'im there should be a greater consensus on international standards through internal cultural discourse and cross-cultural dialogue.<sup>76</sup> On the other hand, An-Na'im does argue he thinks it is unrealistic to expect this cross-cultural approach to achieve total agreement on interpretation and application of human rights standards.

### 2.1.4 Asian Values

A way in which Asian governments have protested against universalist standards was by putting the 'Western versus Asian values' issue on the agenda of the United Nations by drafting the Bangkok Declaration.<sup>77</sup> This declaration was issued by a cooperation of Asian and Middle Eastern states during a preparatory meeting to the United Nations Convention on Human Rights in Vienna in 1993. Through this declaration the governments wanted to empower themselves towards ideological Western domination.<sup>78</sup> This joint venture argued that cultural and socio-economic differences between countries make universal standards for human rights undesirable, if not impossible.<sup>79</sup> The governments argued for inclusion of, in this case, Asian historical, cultural and economic components when it comes to determining human rights standards.<sup>80</sup>

The Bangkok declaration stated: '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

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<sup>74</sup> Abdullahi Ahmed An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives* (Philadelphia 2002) 21.

<sup>75</sup> Abdullahi An-Na'im, *Human Rights in Cross-Cultural Perspectives*, 21.

<sup>76</sup> Ibidem, 38.

<sup>77</sup> The Eleventh United Nations Congress on Crime Prevention and Criminal Justice, 18-25 April 2005 Bangkok Thailand. Bangkok Declaration. <http://www.un.org/events/11thcongress/declaration.htm>

<sup>78</sup> Eliza Lee, 'Human Rights and Non-Western Values', 87 -88.

<sup>79</sup> Michael C. Davis (ed.) , *Human Rights and Chinese Values* (Oxford 1995) 3.

<sup>80</sup> E. Douglas, 'The Struggle for Human Rights', 159.

mind the significance of national and regional particularities and various historical, cultural and religious backgrounds.<sup>81</sup> The main point of this declaration was the argument that economic development is also an important right and that human rights must only come into progress once economic development has been reached. In other words, civil rights can only be considered after welfare rights have been taken care of.<sup>82</sup>

Especially in the 1990s the philosophy that human rights are not applicable to the Chinese culture was very present. This so called 'Asian values' theory was used frequently by Asian governments to defend their human rights policy.<sup>83</sup> The Bangkok Declaration was a signal to the West that the Universal Declaration of human rights does not comply with Asian values, stating that human rights are an imposition of Western values on Asian governments which have a greater need for economic development than Western states.<sup>84</sup> In the end the Bangkok declaration was rejected in 1993 by the United Nations Conference on Human Rights.

Overall, the Bangkok Declaration provides a clear example of the sense of empowerment of Asian governments towards the West, taking the initiative to demonstrate the difference in human rights interpretation. Working with specific definitions always brings along a certain risk. Narrow-mindedness and not completely comprehending the exact content of the definition being used can result in complex situations. In this paragraph, universalism, cultural relativism, Asian values and the cross-cultural approach have been mentioned. Whereas in its legal foundation, human rights are universally applicable, in practice human rights function as a social and cultural framework in which interpretation matters. In the next paragraph some examples will be used to show the complexity of the theoretical debate, and the misunderstandings this clash in values can cause.

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<sup>81</sup> The Eleventh United Nations Congress on Crime Prevention and Criminal Justice, 18-25 April 2005 Bangkok Thailand. Bangkok Declaration. <http://www.un.org/events/11thcongress/declaration.htm>

<sup>82</sup> Margaret Ng, 'Are Rights Culture-Bound?', in: Michael C. Davis (ed.) , *Human Rights and Chinese Values* (Oxford 1995) 59-72, 68.

<sup>83</sup> Margaret Ng, 'Are Rights Culture-Bound?', 62.

<sup>84</sup> Ibidem, 69.

## §2.2: Are rights culture bound?

An example in which the clash between universalism and cultural relativism becomes evident is the Michael Fay Case. Michael Fay was an American teenager who vandalized public property in Singapore during his stay in the country. After his actions Fay was sentenced by the Singaporean authorities to be publicly caned. This resulted in a surge of shocking reactions in the United States. The US government felt there was a huge discrepancy between the criminal offence and the punishment. The *New York Times* even wrote that the future of the relations between the US and South-East Asia would depend on whether this form of corporal punishment would be executed. Nevertheless, Fay was not an exception: these punishments were commonly executed in Singapore.<sup>85</sup>

Scholar Jack Donnelly mentions that the reaction of the United States to this Singaporean domestic affair is a primary example of narrow-mindedness in international human rights policies, since the US government executes people to death by an electric chair. 'If this indeed is what universalism means- and I hasten to repeat that it is not – then of course relativism looks far more attractive'.<sup>86</sup>

The main viewpoints that are predominant in Asian values are related to those predominant in cultural relativism: human rights ought not to be universally applicable. Universal human rights privilege the West, and are not suited for Asia. In Asia, the collective prevails the individual. In order to protect the stability and economic security of the collective, political and civil freedoms have to be sacrificed.<sup>87</sup> Hence, if an individual vandalizes public property like Michael Fay did, the collective suffers. The perpetrator not only vandalized a public good, but harmed every person in society that wanted to make use of that good or attached value to this good. The collective is a greater good than the individual, therefore the individual needs to be punished accordingly.

Universal human rights, Cultural relativism or Cross-cultural values, which definition should be applied? To answer this question, another question should be answered: are human rights culture bound? Margaret Ng, a Chinese politician and writer, argues that when it comes to rights, there is just the relationship between the individual and the state. The individual ought to be protected against the collective interest.<sup>88</sup> She argues that the differences between the origins of rights theories, the validity of rights theories and the implementation of rights need to be distinguished. While it is often said that rights theories find their origin in the writings of the West, human rights do

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<sup>85</sup> Karen Fawcett, 'Americans in Singapore condemn caning for teen', *USA Today* <http://www.corpun.com/sgju9403.htm#1199> 9 March 1994.

<sup>86</sup> Jack Donnelly, *Cultural Relativism and International Human Rights*, 99.

<sup>87</sup> BBC World Service. Article 30: Repression in the name of Rights is unacceptable. Case Study: The concept of Asian Values.

[http://www.bbc.co.uk/worldservice/people/features/ihavearightto/four\\_b/casestudy\\_art30.shtml](http://www.bbc.co.uk/worldservice/people/features/ihavearightto/four_b/casestudy_art30.shtml)

<sup>88</sup> Margaret Ng, 'Are Rights Culture-Bound?', 63.

not automatically express solely Western values. Ng argues that the debate about rights implementation is irrelevant, due to the fact that it cannot affect the validity of human rights.<sup>89</sup> Whether rights should be accepted or rejected depends on whether the rights are valid or invalid, not whether the theory originates from the West or the East.<sup>90</sup>

Fernando Teson, an American law philosopher, argues that relativists undermine their own theory by stating that universal moral principles do not exist by identifying cultural relativism as the only appropriate guideline. Secondly, to react on the argument that universalism is elitist and ethnocentric; he maintains that relativists in fact reason in an ethnocentric way by talking about non-Western cultures and Western cultures, whereas every country has its own cultural values and norms.<sup>91</sup> And on top of that, what exactly is culture? Is culture defined by a nation-state? If this is so, what happens with regard to China, which knows a wide variation of regions and minorities with distinct cultures of their own?

Rhoda Howard, a researcher in the field of International human rights, agrees with Teson. She argues cultural relativists misjudge and romanticize views on other cultures.<sup>92</sup> Cultural relativism does not seem that cultural at all, Howard argues. Eliza Lee finds herself more in the middle of the debate between universalism and cultural relativism, by arguing that both cultural relativism as well as universalism are inadequate theories. She argues that both these theories share a static view of social and political order, rather than to analyze how human rights are evolving.<sup>93</sup> She writes that not just countries in the Asian region, but many non-Western nations have been skeptical when it comes to implementing a human rights system in their countries. They are afraid human rights would destroy the social and political order in their countries. To exemplify, Lee mentions some Islamic beliefs and practices which are in contrast with human rights principles as gender equality, religious freedom and freedom from torture. Especially gender equality causes implementation problems in many countries. Cultural relativists argue that these norms belong to the foundation of cultural systems and can not to be changed due to law.<sup>94</sup>

William P. Alford, legal scholar at Harvard University, illustrates in his essay how complicated the distinction between universal and cultural rights is when applied to the Chinese state. For example, the Chinese one-child policy violates Article 16 of the Universal Declaration of Human Rights which declares that mature adults are free to have a family whenever they choose. On the other hand, if this Chinese one-child policy would not be maintained, the fundamental human dignity

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<sup>89</sup> Margaret Ng, 'Are Rights Culture-Bound?', 63.

<sup>90</sup> *Ibidem*, 65.

<sup>91</sup> Debra Delaet, *The Global Struggle for Human Rights*, 49.

<sup>92</sup> *Ibidem*.

<sup>93</sup> Eliza Lee, 'Human Rights and Non-Western Values', 72-73.

<sup>94</sup> *Ibidem*, 80-81.

spoken of in Article 1 of the same Declaration would be violated. If all Chinese were free to have children whenever they chose, there is little doubt mass malnutrition and starvation would occur, states Alford.<sup>95</sup> Alford reasons that the Western politicians who drafted the Declaration had no experience with topics as mass population confronting countries such as China.<sup>96</sup>

The arguments of Lee and Alford both show the complexity of implementing cultural or universal values to human rights. It is, however, important to establish a communicative process in which all members of the international community should have equal rights to participate. In this way the formation of international norms in order to create a human rights system to accommodate all kinds of different cultural systems can be elaborated upon.<sup>97</sup> It is important that human rights provide for a critical point of reference to distance oneself from the cultural theory in order to find common grounds in which all of the United Nation's member states can comply with.<sup>98</sup>

However, is a cross-cultural approach towards human rights feasible? Non-Western and Third World countries are already members of the United Nations and part of continuous dialogue and participation. Is it still tenable for nations to proclaim that human rights cannot be part of their culture?

Michael Ignatieff, a Canadian politician and historian, mentions a strong argument to put the whole universalism versus cultural relativism into perspective. He argues that it is dangerous to expect human rights documents to set out all the things people want them to. Furthermore Ignatieff outlines the problems that can occur when applying universalist standards. He argues that rights should be regarded in a practical aspect, and the focus should be on what rights realistically can accomplish. The Universal Declaration of Human Rights is merely just a reaction to the effects of Nazi Germany in the Second World War, Ignatieff argues. The message of the consecutive Universal Declaration was to provide a means by which individuals can stand up for themselves in regards of government injustice.<sup>99</sup>

The first problem that Ignatieff mentions concerning enforcing universalist standards is the way in which the West promotes universalist human rights principles. The problem in this case is the consistency in which the West is failing to enhance these principles. This results in non-Western cultures to look at the divided and inconsistent way in which the EU and the US apply human rights principles worldwide and hence conclude there is something off about the principles themselves.<sup>100</sup>

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<sup>95</sup> William P. Alford, 'Making a Goddess of Democracy from Loose Sand. Thoughts on Human Rights in the People's Republic of China', in: Abdullahi Ahmed An-Na'im (ed.), *Human Rights in Cross-Cultural Perspectives* (Philadelphia 2002) 65-80, 74.

<sup>96</sup> William P. Alford, 'Making a Goddess of Democracy from Loose Sand', 65-80..

<sup>97</sup> Eliza Lee, 'Human Rights and Non-Western Values', 60-100.

<sup>98</sup> Ibidem, 1-100.

<sup>99</sup> Michael Ignatieff, *Whose Universal Values? The Crisis in Human Rights* (Amsterdam 1999).

<sup>100</sup> Michael Ignatieff, *Whose Universal Values?*, 25-30.

This inconsistency was also mentioned before by Donnelly in the American attitude towards the Michael Fay case. The only thing the West can do is remind non-Western cultures of the existence of human rights. It is dangerous to enforce universalist norms, Ignatieff argues, because it can have other cultural or political consequences. Enforcing universalist standards has led to non-Western cultures to view universal human rights principles as nothing but a justification for Western moral imperialism.<sup>101</sup> 'Failure to be consistent in enforcement and clear about the boundaries of state sovereignty has led to an intellectual and cultural challenge to the universality of the norms themselves.', Ignatieff argues.<sup>102</sup>

In the desire to find common ground with Asian values and purging their own discourse, the West risks compromising their own universalism they ought to be defending.<sup>103</sup> Ignatieff writes: 'They are criticizing the Universal Declaration, for example, as codification of a Western universalism so blandly confident of its right to define the moral order of the post war world that its signatories never questioned their own premises.'<sup>104</sup>

However, has human rights universalism ever existed in the first place? The Declaration is not as universal as is presumed. For example, the secular ground on which the treaty is founded (the document makes no reference to God) has been created to make agreement possible between the range of different cultural and political situations worldwide.<sup>105</sup>

On top of that, the document *had* to be referring to cultural differentiations in the West, since the drafters from the document came from countries in the West and therefore must have been very aware of the timeframe of the drafting considering the experiences in the Second World War, colonial emancipation and the debate on self-determination that raised after 1945. The drafters of the declaration did not want to be blamed for colonial, paternalistic or merely Christian views on the implementation of rights. Therefore, Ignatieff does not think the drafters of the Universal Declaration have failed. He knows that the Declaration was not a Western triumph or a proclamation of Western superiority.<sup>106</sup> He writes: 'In this sense, human rights is not so much the declaration of the superiority of European civilization, so much as a warning by Europeans that the rest of the world should not seek to reproduce its mistakes.'<sup>107</sup>

Ignatieff reasons that a Western influence that did slip into the core of the Universal Declaration is individualism. But the fact that rights presume moral individualism does not mean

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<sup>101</sup> Michael Ignatieff, *Whose Universal Values?*, 30.

<sup>102</sup> *Ibidem*.

<sup>103</sup> *Ibidem*, 34.

<sup>104</sup> *Ibidem*.

<sup>105</sup> *Ibidem*, 34-35.

<sup>106</sup> *Ibidem*, 34-40.

<sup>107</sup> *Ibidem*, 35-36.

they delegitimize culture. Ignatieff states: 'Rights are universal to the degree that they are taken up and exercised by people in different cultural contexts (...) Sensitivity to the real constraints which limit individual freedom in different cultures is not the same thing as deferring to these cultures. It does not mean abandoning universality.'<sup>108</sup> Ignatieff reasons there is no reason to apologize for moral individualism. It is individualism in the declaration which gives strength to human rights. It is exactly what is attractive to people that suffer exploitation.<sup>109</sup>

Jack Donnelly is also rather outspoken on the issue of cultural relativism. He argues that 'relativist arguments become particularly perverse when they support a small elite that has arrogated to itself the 'right' to speak for 'its' culture or civilization, and then imposes its own self-interested views and practices on the broader society – invoking cultural relativism abroad while ruthlessly trampling on local customs.'<sup>110</sup>

Perhaps Donnelly is right. It can be argued that pure universalism no longer exists, since Western governments have proven to be more willing to discuss the content of human rights with Asian governments. Even though overall Western governments condemn cultural relativism, initiatives such as the Bangkok declaration show that Asian governments have their foot in the door. Donnelly's assumption might be plausible; the heads of state of repressive governments are not true defenders of cultural relativism, they are trying to deflect attention from their repressive regime.<sup>111</sup> The majority of countries, including China, have associated themselves with the human rights values of the United Nations by signing the Universal Declaration. The Universal Declaration, even though drafted in the West, does not merely express Western values.<sup>112</sup>

Even though in politics universalism is a cold hard reality, scholars seem to believe that both universalism and cultural relativism are undesirable, insufficient and outdated theories. Even though the belief in cultural relativism rose for a brief moment in the 1990s, the pure forms were replaced in the 1990s by a mixed variant created by conflict and dialogue closely related to a cross-cultural approach. However, not all Western governments seem to be aware of the surge of cross-culturalness. Why do some governments keep on persisting on the enhancement of pure universalism?

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<sup>108</sup> Michael Ignatieff, *Whose Universal Values?*, 40.

<sup>109</sup> *Ibidem*, 41-42.

<sup>110</sup> Jack Donnelly, *Cultural Relativism and International Human Rights*, 1- 200.

<sup>111</sup> *Ibidem*.

<sup>112</sup> *Ibidem*.

## §2.3: The role of economics

Throughout history, human rights politics has served different objectives than merely guaranteeing the worldwide protection of citizens. Governments have used various strategies to bring about improvements of human rights situation elsewhere.<sup>113</sup> There are many ways to use human rights as an instrument to pursue interests, such as political or economic goals.

One of the possible underlying motives of a human rights debate can be a political motive. An example of this case is the Khmer Rouge regime in Cambodia. In the Cambodian Khmer Rouge regime from 1975 to 1978 all Western government broke off diplomatic relations with Cambodia in order to show their disapproval of the regime.<sup>114</sup> A different way is to use military means to enforce human rights protection, such as the humanitarian interventions to stop human rights violations in Chechnya and in Kosovo.<sup>115</sup> Another reason is to enforce human rights protection to obtain prestige and recognition. An example is the position of the Netherlands in the UNCHR in which the Netherlands took the lead in condemning China for its human rights violations. France, however, abstained from interference in the UNCHR resolutions, afraid to lose its commercial, strategic and economic advantage with China.

In this paragraph, however, the focus will be on to what extent human rights pressure can be used to reach an economic goal. As mentioned in chapter 1, Bruce Buenos de Mesquita is one of many scholars that assumed that the development of the Chinese economy would lead to democracy. The idea behind this assumption is that economic development produces wealth and educates the middle class. After a certain period of time the middle class feels empowered enough to take control over their own fate. Hence, economic development leads to political development, which brings along democracy and the protection of human rights.<sup>116</sup>

This assumption has not yet proven itself true in China. It is not likely that any time soon the middle class will reject the authoritarian regime. It seems like the authoritarian regime is therefore a source of power for the Chinese economy.<sup>117</sup> Perhaps it is possible that the West is preoccupied with human rights violations in China because of the economic threat that China represents for the West.<sup>118</sup>

The West believes that the key to success for China's economy is determined by its

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<sup>113</sup> Peter R. Baehr and Monique Castermans-Holleman, *The Role of Human Rights in Foreign Policy* (Great Britain 2004) 69.

<sup>114</sup> Baehr and Castermans-Holleman, *The Role of Human Rights in Foreign Policy*, 72.

<sup>115</sup> *Ibidem*, 84-85.

<sup>116</sup> Bueno de Mesquita and Downs, 'Development and Democracy', 77-86.

<sup>117</sup> *Ibidem*.

<sup>118</sup> Franco Algieri, 'EU Economic Relations With China: An Institutional Perspective', *The China Quarterly* 169 (2002) 64-77, 69.

authoritarian government. Therefore the West uses the human rights debate to destabilize the Chinese political system and subsequently break the Chinese economic advantage. However, the authoritarian regime cannot be the only reason for the exponential growth of the Chinese economy, because otherwise Bueno de Mesquita's theory would have been proven right.

Amartya Sen, an Indian Nobel prize winner, confirms that there is no evidence that political oppression is beneficial towards economic development. The factors that contributed towards the success of the Chinese economy have been well examined: openness to competition, the use of international markets, a high level of education, successful land reforms and public provision of incentives for investments, exporting and industrialization.<sup>119</sup>

Hence, Sen reasons that China's political system does not contribute to the success of the Chinese economy and that therefore the West should not consider the Chinese political system as an explanatory factor for economic growth. However, there could be stated that perhaps the European Union and the government of the United States are not aware of Sen's argument and still consider the Chinese economy as a threat.<sup>120</sup> The following citation by Franco Algieri confirms the link between Western politics and economic relations:

The demand by Western countries to make the relationship with China conditional, i.e. to **link economic relations with political principles such as the respect of human rights**, the rule of law and democracy, have often been problematic for Chinese politics. Consequently, economic relations with China cannot exclusively be based on value added considerations for the EU but have to be seen as a **highly political relationship** which has to be sensitive to a multitude of internal aspects that characterize China.<sup>121</sup>

In this statement Algieri confirms that bilateral relations between Western countries and China are *always* conditional. Only, in the case of relations between Western countries and China, economic relations and respecting human rights are linked. Economic relations with China are highly political, and this is problematic for China.<sup>122</sup> All of the Western states are economically dependent on China because of its majestic and fast developing economy. Dependency makes it hard to create an equal position in human rights dialogue and therefore to achieve results in forcing China to change its policy.

Thus, even though research has proven that the Chinese political regime has no influence on the growth of the Chinese economy, this is not a reality in politics. Peter van Ness, China Specialist at the Australian National University and Berkeley University, explains why in Western foreign politics

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<sup>119</sup> Amartya Sen, 'Human Rights and Asian Values', 34.

<sup>120</sup> Sen, 'Human Rights and Asian Values', 34.

<sup>121</sup> Franco Algieri, 'EU Economic Relations With China', 69.

<sup>122</sup> Ibidem.

human rights pressure is linked with an economic interest. Van Ness argues that human rights cannot be treated in isolation. He argues that in the political reality, economic problems are usually perceived in a different perspective than political problems: assuming that in every situation there is a mutual benefit, often understood in liberal terms (that is to say each party gains, but each party will try to get a bigger share). On the other hand, moral matters such as human rights issues are considered in terms of absolutist alternatives (mine versus yours, or good versus evil). The outcome of this debate is hardly ever a compromise.<sup>123</sup>

These differences in perspective also bring along a difference in bargaining position and a difference in power balance. On moral questions, Western governments are in a dominant position whereas on economic matters China is dominant. I argue that shifts are being made between these two perspectives to reach the intended objective. That is to say, to reach an economic objective, a moral perspective can be used. In the third chapter of this thesis multiple examples of this assumption will be provided.

To sum up, this balance between perspectives is being used to stimulate human rights enhancement in China and to damage the economy. By stimulating human rights development, the middle class will stick up for itself and break the authoritarian regime. If the regime falls, the economic growth cannot keep up at its unparalleled pace. Perhaps, economic means can be used to stimulate political development in China instead. Instead of using political pressure to temper economic development, perhaps economic pressure can be used to stimulate political development in a positive way. Erin Douglas elaborates on this notion in her article 'The Struggle for Human Rights'. She mentions some possible alternatives to the use of international pressure on China to change its human rights policy by using economic elements.<sup>124</sup>

### **2.3.1. Multinational Corporations**

One of the alternatives Erin Douglas mentions is increasing the influence of multinational corporations (MNC's) in China. Douglas argues that the role of MNC's on the field of human rights has been very controversial, since the main objective of MNC's is to make a high profit and promote capitalism. Perhaps this does not matter. MNC's have a great economic impact by directly supporting socio-economic rights and indirectly also civil and political rights, according to Douglas. The political environment of government is too volatile; MNCs have a more permanent character.<sup>125</sup>

Douglas exemplifies this by mentioning the so-called 'spill-over' effect that MNC's have in China. Douglas writes:

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<sup>123</sup> Peter van Ness, 'Addressing the Human Rights Issue in Sino-American Relations', *Journal of International Affairs*, 49 (1996) 2, 309-331, 309.

<sup>124</sup> E. Douglas, 'The Struggle for Human Rights', 151-177

<sup>125</sup> *Ibidem*, 171.

MNC's began to invest and build along China's coast. The MNC's underpaid the labor, but the labor could not protest. As the enterprises became capital and technology intensive, living standards and pay rose. The spillover effect argues that this growth rate will move inland as foreign companies search for cheaper labor.<sup>126</sup>

Douglas believes that MNC's have moved to the center stage when it comes to international pressure on the improvement of human rights.<sup>127</sup> From this point of view, it is interesting that Douglas also argues that the United States, one of biggest critics on China's human rights policy have repeatedly failed to establish a legal duty to force the American MNC's to respect the international labor rights of foreign workers 'exploited by subsidiaries'.<sup>128</sup> Moreover, the United States is not a signatory to the International Covenant on Economic, Social and Cultural Rights.<sup>129</sup>

Douglas argues that the United States has profited of China's human rights violations so its MNC's would achieve the maximum profit. However, the United States has the obligation under the International Covenant on Civil and Political Rights to punish American MNC's that do not respect the human rights of foreign workers. She argues that the United States must cooperate with the Chinese government to aid the human rights situation in China. They can achieve this by respecting the international labor rights in China.<sup>130</sup> Since an important underlying basic factor in diplomatic relations between China and Western governments has an economic component and is based on economic interests this is an interesting possibility.<sup>131</sup>

Douglas argues that the most repressive times in Chinese history happened in times of international isolation.<sup>132</sup> Therefore, it is very important to involve China in the international arena.

Legal scholar Steve Charnovitz argues<sup>133</sup>:

International trade law needs to become more like international human rights law in establishing norms for what a state owes to its citizens. International human rights law needs to become more like international trade law in enforcing norms through mandatory dispute settlement and potential penalties for non-compliance.<sup>134</sup>

Therefore, it can be said that Western states have stronger economic ties with China than political ones, but maintain a dominant position in the moral and political perspective. In order to enhance the protection of human rights it could be beneficial to establish economic stimulation such as the use of international trade law or the increase of involvement of MNC's. An advantage for Western

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<sup>126</sup> E. Douglas, 'The Struggle for Human Rights', 171-172.

<sup>127</sup> *Ibidem*, 172.

<sup>128</sup> *Ibidem*.

<sup>129</sup> *Ibidem*.

<sup>130</sup> *Ibidem*, 173.

<sup>131</sup> *Ibidem*, 170-180.

<sup>132</sup> *Ibidem*, 174.

<sup>133</sup> *Ibidem*, 176.

<sup>134</sup> *Ibidem*.

MNC's with the possible intent to improve the rights of local workers is that there is no need for direct bilateral contact on governmental level. MNC's can work past the government to indirectly increase the level of welfare and the rights of their workers.<sup>135</sup>

In sum, it could be argued that bilateral relations between Western countries and China are always conditional. Conditionality and dependency make it hard to create an equal position in human rights dialogue and therefore to achieve results in forcing China to change its policy.<sup>136</sup>

Human rights cannot be treated in isolation. Economic problems are usually looked at from a different perspective: assuming that in every situation there is a mutual benefit, often understood in liberal terms. Moral questions such as human rights enhancement are considered in terms of absolutist alternatives. These differences in perspective mean a difference in bargaining position and a difference in power balance. On moral questions, Western governments are in a dominant position whereas on economic matters China is dominant. Thus, to reach an economic objective, a moral perspective can be used and vice versa.<sup>137</sup> In the third chapter of this thesis examples of this assumption will be provided.

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<sup>135</sup> E. Douglas, 'The Struggle for Human Rights', 170-180.

<sup>136</sup> Franco Algieri, 'EU Economic Relations With China, 60-70.

<sup>137</sup> Peter van Ness, 'Addressing the Human Rights Issue in Sino-American Relations', 309-331.

## Conclusion Chapter 2

In this second chapter, a theoretical framework of human rights theory has been provided in order to comprehend the differences in political behavior of Western actors and the Chinese government. Universalism is the grounding philosophy of the Universal Declaration of Human Rights and of the human rights policy of the Western governments. Universalism stands for a common understanding of rights and freedoms. The second theory, cultural relativism came into existence in the 1990s as a form of protest against the established theory of universalism. The core of this theory is that human rights standards should not override cultural values. Somewhere in between universalism and cultural relativism stands the cross-cultural approach. In the cross-cultural approach a common understanding of human rights ought to be found between different cultural values. The latter is the most feasible approach in current international affairs.

Working with specific definitions always brings along a certain risk. Narrow-mindedness and not completely comprehending the exact content of the definition being used can result in complex situations such as illustrated in the Michael Fay case.

In the second paragraph the research question was to what extent human rights can be culture bound. Cross-cultural approach is argued to be the most desirable approach, but is this feasible? Realistic is that rights should not be expected to set out everything people want them to do. Whereas in its legal foundation and in political reality, human rights are universally applicable, in practice human rights function as a social and cultural framework in which interpretation matters.

If rights are by definition culture bound, why do Western governments keep on forcing their own human rights values on China? A possible explanation is the conditional relationship between economic relations and political principles such as human rights. Human rights cannot be regarded in isolation and are always linked to economic relations. Political arguments can be used to reach an economic objective and vice versa. Therefore, economic means can be used to stimulate Chinese human rights enhancement, such as involving Multinational Corporations.

## Chapter 3

# Human Rights as a Political Instrument

### Introduction

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For most Western states, bilateral diplomatic relations with China were not established until the end of the Cold War. Before the ending of the Cold War, the human rights violations that took place in the former Soviet Union were a topic of attention of the foreign policy of both the European Union and the United States.<sup>138</sup>

After the fall of the Soviet Union, the established anti-Soviet policy of the United States fell apart during the third wave of democratization. The United States government thought the Chinese government moved itself in the wrong direction.<sup>139</sup> The decay of the Soviet regime and the Tiananmen Square incident were landmarks and made the year 1989 a turning point in world history and in the international struggle for human rights.<sup>140</sup>

The hypothesis of this chapter is that the Western focus on international human rights violations shifted in the late 1980s, from Eastern Europe - fighting communism - towards China and its emerging strong economy. To what extent has the human rights dialogue after 1989 of the United States and the European Union with the Chinese government been saturated with political and economic strategic motives?

In order to answer this question, several paragraphs will be used. First, the development of the relevant foreign policy of the European Union will be elaborated upon. In this paragraph, the biggest accomplishment of the EU viz. the EU-China dialogue will be critically looked at. Second the American human rights policy towards China will be analyzed. Third a case study is conducted, which discusses the case of the Netherlands. In this case the bilateral relations between China and the Netherlands are analyzed in order to distinguish the inconsistencies that can occur between the political behavior of a individual member state and the CFSP, due to the different relations each European member states has with China. It is of importance to demonstrate these inconsistencies in order to understand the difficulties of establishing a single European CFSP, when the separate nation states work on their bilateral relations with China on the side. The case study of the Netherlands

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<sup>138</sup> Zi Qhou, 'Conflicts over Human Rights between China and the US', *Human Rights Quarterly* 27 (2005) 105-125, 106.

<sup>139</sup> Zi Qhou, 'Conflicts over Human Rights between China and the US', 106.

<sup>140</sup> Jack Donnelly, *International Human Rights. Dilemmas in World Politics* (Boulder 1998), 115.

serves to outline the underlying problems concerning the CFSP and the EU-China dialogue from 1990 to 2000.

### **§3.1: The European Union**

It is difficult to compare the foreign policies of the United States and the European Union concerning their international human rights policy towards China. The United States is a single nation state with a developed foreign policy. Since the European Union is a coalition of numerous and different member states, it is hard to define what EU foreign policy actually is.

According to Reuben Wong, working at the Political Science department of the National University in Singapore, EU foreign policy distinguishes itself for having three main components: the national foreign policies of the individual member states, the bilateral trade relations between China and the various member states, and the Common Foreign and Security Policy (CFSP) of the EU.<sup>141</sup>

These components resulted in multiple actions in the period from 1989 until 1997, such as sanctions, bilateral dialogues between member states of the EU and the Chinese government, and holding China accountable in multilateral forums (in particular the United Nations Commission on Human Rights),<sup>142</sup> in which the EU cooperated with the United States.<sup>143</sup>

In this paragraph the focus will be upon the two last components Ruben Wong mentioned, that is to say on how the European Union conducts its policy as one unified actor in dialogue with the Chinese government and on the behavior of a particular European member state; the Netherlands.

#### **3.1.1 Common Foreign and Security Policy**

The European Union is a strong advocate for human right enhancement. The establishment of a coordinated foreign policy has been a process of many years. To be more specific, this process has been initiated with the European Political Cooperation (EPC) in the 1970's. The Single European Act in 1987 fixed foreign policy cooperation into one single treaty. From that moment on, the foreign policy kept on being innovated from treaty to treaty. The treaty of Maastricht sets out the Common Foreign and Security Policy (CFSP) as the second pillar of the EU.<sup>144</sup> The treaty stated that respect for human rights was one of the main objectives of the European Union's foreign policy. This was

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<sup>141</sup> Reuben Wong, 'Towards a Common policy on China? Economic, Diplomatic and Human Rights Developments Trends Since 1985', *Current Politics and Economics of Asia* 17 (2008) 1 155-183, 157

<sup>142</sup> UN High Commissioner for Refugees, *UNHCR List of Abbreviations*, November 2006, available at: <http://www.unhcr.org/refworld/docid/460cc4a82.html> [accessed 5 December 2011]

<sup>143</sup> Wong, 'Towards a Common policy', 170.

<sup>144</sup> Carol M. Glen and Richard C. Murgo, 'EU-China relations: balancing political challenges with economic opportunities' (2007) 334-344, 334.

reaffirmed in later treaties such as the Treaty of Amsterdam (1997) and the Treaty of Nice (2001).<sup>145</sup>

The main legal framework that initiated diplomatic relations between the former European Community (EC)<sup>146</sup> and China was trade related. The 1985 EC-China Trade and Economic Cooperation Agreement<sup>147</sup> aimed to introduce a new stage by using economic cooperation to promote the mutual economic interests of both parties.<sup>148</sup> Hence, diplomatic relations between the EU and China were developed in the 1980s, merely for economic gains but also as a reaction on the ongoing irritations between the United States and China followed by the decay of the Soviet regime.<sup>149</sup>

Until 1989, the relations between China and the EU were rather stable and based on economic cooperation. This situation changed in the aftermath of the Tiananmen Square incident. Back then, the EU unanimously condemned these events and immediately took action. The EU suspended all bilateral relations, such as high level talks between the Chinese government and EU officials and other bilateral meetings. The idea behind these measures was to force China to resolve the conflict through dialogue. In addition, the EU suspended all economic and cultural relations with China.<sup>150</sup>

Subsequently, on June 6<sup>th</sup> 1989 the European leaders joined forces for the first time to discuss the common position of the member states on the EU-China human rights position in Madrid. Afterwards, they issued a press statement as following:

The Twelve, deeply shocked by the tragic developments in China, strongly condemned the violent repression used against the peaceful demonstrators, which has resulted in widespread loss of life (...) Continuing repressive actions, in violation of universally recognized human rights principles, will greatly prejudice China's international standing and compromise the reform and open door policies which the European Community and its Member States have actively supported. The European

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<sup>145</sup> Glen and Murgu, 'EU-China relations', 334.

<sup>146</sup> 'The European Community' was renamed 'the European Union' in 1992. However, for convenience in this thesis will be referred to 'the European Union' (EU), even when mentioning dates prior than 1992.

<sup>147</sup> European Union Treaties Office Database. Summary of Treaty. Agreement on Trade and Economic Cooperation between the European Economic Community and the People's Republic of China. <http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=341>

<sup>148</sup> Summaries of EU Legislation. EEC-China Trade and Economic Cooperation Agreement. [http://europa.eu/legislation\\_summaries/external\\_relations/relations\\_with\\_third\\_countries/asia/r14206\\_en.htm](http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/asia/r14206_en.htm)

<sup>149</sup> Kay Möller, 'Diplomatic Relations and Mutual Strategic Perceptions: China and the European Union', *The China Quarterly* 169 (2002) 10-32.

<sup>150</sup> Benjamin Zyla, 'Riding the Asian Tiger? How the EU Engaged China Since the End of the Cold War', in: Georg Wiessala, John Wilson and Pradeep Taneja (ed.), *The Context of EU-China Relations and The Human Rights Dilemma* (New York 2009) 83-107, 91.

Community and its Member States have already taken a number of measures, including suspension of high-level contacts, and will continue to keep developments in China under urgent review.<sup>151</sup>

Consequently, at the European Council on June 27th the following measures were adopted:

In the present circumstances, the European Council thinks it necessary to adopt the following measures: Raising the issue of human rights in China in the appropriate international forums; Asking for the admittance of independent observers to attend the trials and to visit the prisons; Interruption by the Member States of the Community of military co-operation and an embargo on trade in arms with China; Suspension of bi-lateral ministerial and high-level contacts; Postponement by the Community and its Member States of new co-operation projects; Reduction of programs of cultural, scientific and technical co-operation to only those activities that might maintain a meaning in the present circumstances; Prolongation by the Member States of visas to the Chinese students who wish it.<sup>152</sup>

Apart from these policy statements however, the European States did not have a consolidated and integrated policy on how to approach the Chinese government.<sup>153</sup> Eberhard Sandschneider argues that this problem is due to the national interests of EU member states. These interests are at times stronger than the wish to establish a European common foreign policy. Diplomatic relations between Europe and China are not as clearly defined as expected.<sup>154</sup> National interests still tend to be more influential in diplomatic relations with China than a Common Foreign and Security Policy.<sup>155</sup>

According to Sandschneider, the differences between EU foreign policy and domestic policies are that criticizing the human rights record in China is mostly left to the EU while the national governments concentrate merely on promoting exchanges and investment in favor of their economies.<sup>156</sup> Thus, the initial EU statements and reactions on the Tiananmen Square incidents did not cause a great impact due to the division between member states and the fact that the member states did not follow through on judgment due to their economic interests.

However, this made the EU take an initiative at a higher level. From 1990 onwards the European Union started to sponsor resolutions on China at the annual meetings of the UN Commission for Human Rights (UNCHR). But also in this forum creating unanimity on this issue soon started to show some difficulties due to the different interests of the member states with the

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<sup>151</sup> EFPB document no. 89/171 In: Philip Baker, 'Human Rights, Europe and the People's Republic of China', *The China Quarterly* 169 (2002) 45-63, 49.

<sup>152</sup> EFPB document no. 89/180. In: Philip Baker, 'Human Rights, Europe and the People's Republic of China', *The China Quarterly* 169 (2002) 45-63, 49.

<sup>153</sup> Eberhard Sandschneider, 'China's diplomatic relations with the states of Europe', *The China Quarterly* 169 (2002) 33-44, 33.

<sup>154</sup> Eberhard Sandschneider, 'China's diplomatic relations with the states of Europe', 33-34.

<sup>155</sup> *Ibidem*, 34.

<sup>156</sup> *Ibidem*, 42.

Chinese government.<sup>157</sup> To illustrate, in 1996 France and Germany emphasized an approach of constructive engagement and dialogue, considering their growing economic ties with the China. On the contrary, the Nordic countries which had just a slight economic interest with China, expressed their discontent with the attitude of France and Germany. Consequently, this contrast became even clearer in 1997, when the Dutch President of the European Council Van Mierlo wanted to reconcile the two camps during a meeting prior to the UNCHR of that year. The intention of this meeting was to find a common ground between the disagreeing member states. However, in 1997 no consensus could be found and this resulted in Denmark and the Netherlands being the only EU members that supported the resolution.<sup>158</sup>

This debacle was severely criticized by NGO's worldwide and by the European parliament. Therefore, the strategy of constructive engagement was re-embraced by the major member States within the EU. They looked for positive signs in China's governmental behavior, such as the renewed readiness to sign International human rights covenants.<sup>159</sup>

### 3.1.2 Arms embargo

The EU imposed pressure on China after the Tiananmen Square incident by means of an arms embargo. The embargo would only be lifted if China would make significant progress on the development of human rights.<sup>160</sup> Thus, this embargo became directly linked to the improvement of the Chinese human rights policy. The embargo has been used as an ongoing diplomatic tool when negotiating with the Chinese government.<sup>161</sup>

Officially, the EU shares a code of conduct. This code was adopted by all EU member states in 1998 and contains eight criteria under which arms-export licensing decisions in order to promote human rights stability.<sup>162</sup> Nevertheless, whether the embargo should be lifted has been a topic of debate ever since the implementation in 1989.<sup>163</sup> Proponents of the lifting of the arms embargo argue that China has changed since 1989 and should be rewarded for their achievements. On top of this they claim that according to the EU Code of Conduct China cannot be discriminated since the EU does trade arms with Russia.<sup>164</sup> Opponents, such as the European Parliament and the Nordic member

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<sup>157</sup> Giuseppe Balducci, 'The Limits of Normative Power Europe in Asia: The Case of Human Rights in China', *East Asia* (2010) 27 35-55, 42.

<sup>158</sup> Balducci, 'The Limits of Normative Power', 42.

<sup>159</sup> *Ibidem*, 41-43.

<sup>160</sup> Jing Men, 'Between Human Rights and Sovereignty – An Examination of EU-China Political relations', *European Law Journal* 17 (2010) 4 534-550, 547.

<sup>161</sup> 'Should the EU lift its arms embargo on China?' 25 february 2011. <http://www.euractiv.com/global-europe/eu-lift-arms-embargo-china-analysis-502529>

<sup>162</sup> Men, 'Between Human Rights and Sovereignty', 547.

<sup>163</sup> 'Should the EU lift its arms embargo on China?' 25 february 2011. <http://www.euractiv.com/global-europe/eu-lift-arms-embargo-china-analysis-502529>

<sup>164</sup> Casarini, 'What Role for the European Union in Asia?', 70-76.

states of the EU urge for greater progress on human rights before the arms embargo can be lifted. Nicola Casarini, expert on EU-China relations, explains an important argument to oppose the end of an arms embargo<sup>165</sup>:

The opponents to the lifting argue that, once the embargo is lifted, China may be able to acquire weapons systems from Europe, especially advanced early warning capabilities as well as surface-to-air and air-to-air missile systems, that could significantly affect the military balance across the Taiwan Strait in Beijing's favor and thus affect American and Japanese interests in the area. Washington, in particular, has voiced its opposition, threatening retaliation in EU-US industrial and defense cooperation in case the arms embargo is lifted. The US maintains that the human rights situation in China has not improved to the point where it merits lifting the ban. Moreover, the US has concerns about EU export controls and the ability to protect sensitive technology from being transferred to China since Washington has obligations and interests in maintaining a balance between Taiwan and China and ensuring that Taiwan can defend itself. In response to US criticism, EU officials have asserted that the lifting of the arms embargo would be mainly a 'symbolic gesture'. In other words, the lifting would be a **political act** that does not suggest that the EU member states seek to sell arms or defense technologies (which the embargo also covers) to China.<sup>166</sup>

In short, where the EU differs in its attitude towards China from the US is that the EU does not regard China as a possible military threat or competitor, which the US does.<sup>167</sup> The possible lifting of the EU arms embargo would be a political gesture, but it would be hardly feasible because it conflicts with US interests. Besides this arms embargo and plans to create a revised Code of Conduct, some European national governments have continued to sell arms to China, and thus have sidestepped the arms embargo.<sup>168</sup>

According to Casarini this ambiguous attitude towards the possible lifting of the arms embargo reflects 'the distinctive approach of the EU to the rising China.'<sup>169</sup> It needs no further explanation that this extreme ambiguity sends a very mixed signal towards the Chinese government. One the one hand, the EU arms embargo is useless if the Chinese government still can approach European arms-suppliers via national governments. One the other hand, it is worth noting that lifting the embargo would mean undermining authority of the US. The United States government acknowledges this dilemma; hence both the Republican and the Democratic Party in the United

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<sup>165</sup> Casarini, 'What Role for the European Union in Asia?', 70-76.

<sup>166</sup> Ibidem, 74.

<sup>167</sup> Ibidem, 73.

<sup>168</sup> Ibidem, 75.

<sup>169</sup> Ibidem, 73.

States have warned the EU that if the arms embargo would be lifted, the EU would be throwing away more than a decade of human rights policy for economic gains.<sup>170</sup>

### 3.1.3 EU-China dialogue

Thus, besides the arms embargo, the European member states have followed a policy of 'constructive engagement' towards China, which means having 'a policy of having political and business relationships with a country, while at the same time supporting political and social change within that country'.<sup>171</sup>

This constructive engagement policy resulted in the EU-China dialogue. This dialogue was established in 1995, when a document called 'A long term policy for EU China relations' was published by the European Commission.<sup>172</sup> In the content of this paper the growing global importance of the Chinese state was recognized and hence the growing importance of closer relations with Europe.<sup>173</sup> The ratification of the ICCPR was one of the main objectives of the EU-China dialogue.<sup>174</sup> The first EU-China summit was held in 1998 in London and from here on an annually summit and a human rights dialogue were continuously organized every year.<sup>175</sup>

The EU-China dialogue has been severely criticized ever since the initiation in 1995. The main point of criticism is that the dialogue has remained without result. Philip Baker argues that the human rights dialogue is being exploited by Chinese diplomats as a tool to deter European criticism on human rights. Baker feels like the EU-China dialogue is just a replacement for a real human rights policy on China. 'The fact that a dialogue was continuing means that the EU member states could say that they were doing something about China's human rights record, however worthless the dialogue might be.'<sup>176</sup>

Also Jing Men thinks the dialogue is valueless, and together with Baker argues that somehow the European member states attach value to the dialogue because without it, there would be no external human rights policy at all. Men however does point out that the dialogue, however not always successful, is still an important channel through which the EU can raise its concerns and to the Chinese counterpart.<sup>177</sup> The basic problem here is that if the EU ever threatens submit a resolution at the UNCHR, the Chinese could counteract by breaking off the dialogue. If this would happen, the

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<sup>170</sup> Casarini, 'What Role for the European Union in Asia?', 75.

<sup>171</sup> 'Definition of Constructive Engagement'

<http://www.macmillandictionary.com/dictionary/british/constructive-engagement>.

<sup>172</sup> COM(1995) 279: 'Communication of the Commission, A long term policy for Europe-China Relations'

[http://eeas.europa.eu/china/docs/com95\\_279\\_en.pdf](http://eeas.europa.eu/china/docs/com95_279_en.pdf)

<sup>173</sup> Glen and Murgu, 'EU-China relations', 335.

<sup>174</sup> Ibidem.

<sup>175</sup> Chronology European Commission

<sup>176</sup> Philip Baker, 'Human Rights, Europe and the People's Republic of China', *The China Quarterly* 169 (2002) 45-63.

<sup>177</sup> Men, 'Between Human Rights and Sovereignty', 546.

European Union would end up without any China policy at all. Therefore, the EU-China dialogue is a fragile and unequal construction that is unlikely to achieve any results.<sup>178</sup>

In 1999 the General Affairs Council issued a warning on this matter:

The Council views the EU-China human rights dialogue and the co-operation program in the field of human rights as important instruments to foster respect for human rights in China. **But this dialogue is not an end in itself. The EU expects concrete results on the ground.** The Council therefore underlined the need to make the EU-China dialogue more focused on issues of priority, more regular and more oriented to securing concrete improvements.<sup>179</sup>

This warning provided a clearly defined statement of the problem in an early stage: the dialogue in itself is not an adequate answer to the problematic situation in China. However, amongst the EU institutions there was a great sense of denial of the lack of success of the dialogue. This sense of denial is illustrated in the following quote:

Since the resumption of the EU-China human rights dialogue in October 1997, China has taken a number of positive steps which will bring about its closer co-operation with UN human rights mechanisms. These include signature of the International Covenant on Economic, Social and Cultural Rights, invitation to the UN High Commissioner for Human Rights to visit China, and the recent announcement that China is preparing to sign the International Covenant on Civil and Political Rights. We recognize that this is the beginning of a long process, but the EU's policy is starting to produce results.<sup>180</sup>

This statement has a positive notion and mentions that the Chinese government made quite the progress in human rights enhancement in the 1990s. Baker however is very critical on this statement. He comments that the Chinese government signed the ICESCR before Jiang Zemin, president of China from 1993-2003, visited the United States in 1997. China's signature on the ICESCR and the ICCPR has more to do with US-China relations than with EU-China relations.<sup>181</sup>

From 2000 onwards, it seems like this situation has hardly changed. In a 2006 Press Release of the Council of the European Union on External Relations the following was stated:

The Council reaffirms the high importance the EU attaches to its exchanges with China on human rights, including through the EU-China Human Rights Dialogue. The Council welcomes progress made by China in giving effect to the economic rights of its citizens and the commitment made to reform its criminal justice system. It also appreciates the commitment made by China to fulfill international

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<sup>178</sup> Baker, 'Human Rights, Europe and the People's Republic of China', 59.

<sup>179</sup> Ibidem, 60.

<sup>180</sup> Question no. H-0310/98. EFPB document no. 98/42. In: Baker, 'Human Rights, Europe and the People's Republic of China', 60.

<sup>181</sup> Baker, 'Human Rights, Europe and the People's Republic of China', 61.

human rights obligations and to cooperate with UN human rights mechanisms, in particular the UN Human Rights Council (...) However; the Council continues to **have serious concerns about the human rights situation in China and deeply regrets the fact that there has been little progress in a number of areas**. The EU urges China to enact its commitment to ratify the ICCPR and accede to the Rome Statute of the International Criminal Court at the earliest possible opportunity. The EU will continue to monitor the human rights situation in China and to work with China for positive change through continued and improved dialogue and cooperation.<sup>182</sup>

Thus, little progress has been made regarding the goals set out in the 1995 policy paper. Philip Baker would prefer to see the issue of China's human rights policy going back to the international forums. The EU-China dialogue failed mainly because a lack of effort of some of the EU member states, probably out of a desire of commercial advantage. One of the biggest challenges will be to persuade member states to stick up to their human rights policy, even when possible commercial interests of the country are at stake.<sup>183</sup>

Overall, the division about issues such as the arms embargo and the inactivity in the UN Human Rights Commission have resulted in 'wedge-issues' in the EU-China dialogue. Georg Wiessala explains that these 'wedge-issues' come close to the old *divide et impera* or divide and rule strategy.<sup>184</sup> This is compatible with Philip Baker's argument, meaning that due to the incompatibility of the interests of the several European member states, the Chinese government comes out stronger.

Also the European Council on Foreign Relations believes that China has learned to benefit the division amongst the 27 European Member States. A 2008 report quotes a neo-authoritarian Chinese academic, Pan Wei: 'the EU is weak, politically divided and militarily non-influential. Economically, it's a giant, but we no longer fear it because we know that the EU needs China more than China needs the EU.'<sup>185</sup> Hence, there is no such thing as a coordinated EU-China policy, and the EU does not have enough political instruments to establish it.<sup>186</sup>

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<sup>182</sup> Press release 16291/06 (Presse 353), 9.

<sup>183</sup> Baker, 'Human Rights, Europe and the People's Republic of China', 60-63.

<sup>184</sup> Georg Wiessala, 'Duality – Dialogue – Discourse: Some Perspectives on Human Rights in EU-China Relations', in: Georg Wiessala, John Wilson and Pradeep Taneja (ed.), *The Context of EU-China Relations and The Human Rights Dilemma* (New York 2009) 83-103, 93.

<sup>185</sup> John Fox & Francois Godement, 'A Power Audit of EU-China Relations', *European Council on Foreign Relations* (2008) (via [www.ecfr.eu](http://www.ecfr.eu)), 3.

<sup>186</sup> Georg Wiessala, 'Duality – Dialogue – Discourse: Some Perspectives on Human Rights in EU-China Relations', 96.

### 3.1.4 Anachronism?

What remains, are economic goals. Trade is the real backbone of EU-China relations, Wiessala argues. The Chinese state changed immensely over the last decade. Why is it so that the EU human rights policies remain anachronistic and unchanged?<sup>187</sup>

A 2008 policy report on the EU-China relations from the European Council on Foreign Relations initiates with the sentence that Europe's approach to China has been stuck in the past.<sup>188</sup> It states that the China policy is based on a 'normative and anachronistic perspective' that the Chinese government will liberalize its economy, rule of law principles and democratize its politics under influence of European involvement. The underlying philosophy of the European policy has been that engagement with China is in essence always positive, promotes liberal and democratic values and should not be conditional or adaptable on Chinese governmental behavior. This policy can be described as 'unconditional engagement'; a policy that gives the Chinese government access to (economic) cooperation with the European Union while asking for little or nothing in return.<sup>189</sup>

The EU-China dialogue is a good example of unconditional engagement. The European attitude towards China is positive and unconditional: nothing explicit is expected from the Chinese counterparts. Being a normative power, the EU wants to help the Chinese government apply the rule of law principle and to have more respect to human rights and democracy.

However, a big gap exists between the European emphasis on human rights and democracy and China's focus on sovereign independence and priority of economic development.<sup>190</sup> The European Council on Foreign Relations suggests that under reciprocal engagement the EU should work on its credibility concerning its human rights approach. Therefore, the Council advises that the EU should focus on four different areas of human rights enhancement: restrict the use of the death penalty, end imprisonment without judicial review, protect religious freedom, and work towards reconciliation in Tibet.<sup>191</sup>

It also should revitalize the EU-China dialogue, based on four priorities mentioned in the report: 'strengthen rather than weaken its public position on human rights in China; ensure that EU leaders do not deny each other support in order to curry favor in Beijing when China applies pressure; and issue a statement that EU leaders and parliamentary authorities will not tolerate any

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<sup>187</sup> Georg Wiessala, 'Duality – Dialogue – Discourse: Some Perspectives on Human Rights in EU-China Relations', 97.

<sup>188</sup> John Fox & Francois Godement, 'A Power Audit of EU-China Relations', *European Council on Foreign Relations* (2008) (via [www.ecfr.eu](http://www.ecfr.eu)) 1.

<sup>189</sup> John Fox & Francois Godement, 'A Power Audit of EU-China Relations', *European Council on Foreign Relations* (2008) (via [www.ecfr.eu](http://www.ecfr.eu)) 1, 2.

<sup>190</sup> Men, 'Between Human Rights and Sovereignty', 545.

<sup>191</sup> John Fox & Francois Godement, 'A Power Audit of EU-China Relations', *European Council on Foreign Relations* (2008) (via [www.ecfr.eu](http://www.ecfr.eu)) 17.

restriction on their right to meet political and religious figures, including the Dalai Lama.<sup>192</sup>

Chris Patten has been British Governor of Hong Kong and has been the European Commissioner for External Affairs from 1999 until 2004. He reasons that instead of constantly pressuring the Chinese government into a never ending and inefficient dialogue in order to change its human rights policy, the European Union should look at shared concerns such as illegal immigration, food hygiene and energy consumption.<sup>193</sup>

Hence, what the conclusions of Patten and the European Council of Foreign Relations have in common is that they share a focus on specific topics. Patten prefers a focus on shared concerns between China and the West, whereas the Council merely focuses on human rights topics prioritized by concern. An approach as such stands in contrast with the unconditional engagement policy exerted in the EU-China dialogue and to a lesser extent in the European approach in the UNCHR.<sup>194</sup>

Perhaps it would be preferential to abandon the unconditional engagement tactics and replacing this by specific topics of shared concern. First of all, this would make the dialogue reciprocal and would bring along benefits for both parties. Secondly, China has been very clear about its vision that it considers human rights as an internal affair. Ten years of intensive human rights debates and submitted resolutions have been hardly effective. Perhaps it is time to step away from a never ending dialogue and focus on some more concrete topics. Third, a common European normative attitude is hard to swallow when the separate nation states show a different, more pragmatic and economic attitude.

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<sup>192</sup> John Fox & Francois Godement, 'A Power Audit of EU-China Relations', *European Council on Foreign Relations* (2008) (via [www.ecfr.eu](http://www.ecfr.eu)) 17.

<sup>193</sup> Chris Patten, 'A New Europe has its own agenda with China', (2001) 24.

<sup>194</sup> Patten, 'A New Europe', 24.

## §3.2: The United States

After the collapse of the Soviet Union, the bilateral relations between the US and China lost much of their strategic meaning.<sup>195</sup> Jack Donnelly, author of the book 'International human rights', argues that a political vacuum was created after the decay of the Cold War. This was part of the reason why the United States reacted extremely fierce after the 1989 Tiananmen Square massacre. The massacre created strong resentment towards China which resulted in a strong and long-lasting reaction, incomparable with any other nation state or the EU. Donnelly states whereas the rest of the world continued its relations with China in the aftermath of the massacre, the US maintained and even expanded its sanctions after 1989.<sup>196</sup>

In fact, the United States imposed a remaining economic sanction which was more effective than any other sanction, Ann Kent argues. The implementation of this sanction depended on the debate whether to continue the 'Most Favored Nation'<sup>197</sup> status. This status has been accorded to the Chinese government since 1980, but had to be renewed every year.<sup>198</sup>

The meaning of the status is explained in an article of the American congressional research service: 'Most-favored-nation (MFN) treatment, or MFN trading status, has been the principal economic threat in our bilateral economic relationship from the Tiananmen crackdown of June 1989 until President Clinton separated human rights from MFN on May 26, 1994. The MFN principle is a reciprocal granting to a trading partner of non-discriminatory trade treatment, including lowest normal tariff rates on import.'<sup>199</sup>

On 23 July 1991 the American Senate approved legislation that needed the Chinese government to improve its overall human rights situation in exchange for special export rights to the American market. In the end, the vote was 55 to 44. This debate was perceived as a threat by the Chinese government, possibly endangering its economic development.<sup>200</sup> It is even said that this debate was the most offending gesture a Western authority pulled off in sequence of the Tiananmen massacre.<sup>201</sup>

In 1993 President Clinton took this debate to the next level by making a tremendous change by adding human rights assessment to the annual renewing of the Chinese MFN status. The American Secretary of State recommended Clinton to base his decision on three criteria, being the freedom of

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<sup>195</sup> Patten, 'A New Europe', 24.

<sup>196</sup> Jack Donnelly, *International Human Rights. Dilemmas in World Politics* (Boulder 1998), 121-122.

<sup>198</sup> Kent, *Between Freedom and Subsistence*, 216.

<sup>199</sup> 01709/1994/06/00 'China MFN Chronology: 1994' J. Michael Donnelly, Information Research Specialist Congressional Reference Division 1.

<sup>200</sup> Kent, *Between Freedom and Subsistence*, 217.

<sup>201</sup> Zi Qhou, 'Conflicts over Human Rights between China and the US', 100-110.

emigration in China (elimination of the Hukou system), the compliance with the previous 1992 US-China agreement on prison labor, and the Chinese progress on human rights standards.<sup>202</sup>

Nevertheless, the linkage Clinton initiated did not last very long. In 1994 President Clinton decided to continue the MFN status for China, despite the lack of progress on human rights. Moreover, he delinked human rights progress from renewal of the MFN status. Other US sanctions remained intact such as the arms embargo.<sup>203</sup> It is quite remarkable that President Clinton changed his perspective on the MFN status within one year. He renewed the status because he reasoned that renewal was the best way to promote the long term interests with China, including human rights.<sup>204</sup>

Another important instrument by which the US pressured the Chinese government to improve its human rights policy was to cooperate with the EU at the UNCHR. Almost every year from 1990 onwards the US pushed towards the introduction of a draft resolution criticizing the Chinese government.<sup>205</sup> A turning point however, was the year 1996 in which the United States changed its policy towards China due to the Taiwan Strait Crisis. Hence, the Clinton government emphasized the willingness to start an open dialogue with the Chinese government and hereby followed European example of the EU-China dialogue. In condition to the initiation of dialogue, the United States demanded four requirements: to release Chinese dissidents for medical reasons, to sign the ICCPR, to resume bilateral human rights dialogue and to permit the Red Cross to visit Chinese prisons.<sup>206</sup>

Initially, the United States government officials were satisfied with the first results. Particularly the village elections organized in the rural areas of China deeply impressed US diplomats. However, by the end of 1998 the US diplomats noticed that the initial progress was being reversed and that the human rights situation was once again deteriorating.<sup>207</sup>

Overall, the Clinton administration was remarkably outspoken at times in its foreign policy towards China, much more than their European counterparts. Zhou Qi exemplifies this by mentioning that when the Chinese President Jiang Zemin visited President Clinton in 1997, Clinton presented a list of dissidents to Zemin demanding their release. Possibly due to the persistence of President Clinton, the

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<sup>202</sup> 01709/1994/06/00 'China MFN Chronology: 1994' J. Michael Donnelly, Information Research Specialist Congressional Reference Division 1.

<sup>203</sup> 01709/1994/06/00 'China MFN Chronology: 1994' J. Michael Donnelly, Information Research Specialist Congressional Reference Division 1.

<sup>204</sup> 01742/1994/08/00 'Most favored Nation status'

<sup>205</sup> Zi Qhou, 'Conflicts over Human Rights between China and the US', 108.

<sup>206</sup> <http://academic.lexisnexis.nl/uu/?language=en> TYLER, PATRICK E; ALBRIGHT, MADELEINE K (SEC) BILL CLINTON (55%); HILLARY RODHAM CLINTON (55%); HILLARY RODHAM CLINTON (55%);

**LOAD-DATE:** February 24, 1997 (22/11/11)

<sup>207</sup> Zi Qhou, 'Conflicts over Human Rights between China and the US', 90-115.

Chinese government seemed much more in dialogue with the United States than with the European Union in the beginning of the nineties. Whereas the European Union was still getting lost in internal division and conflict interests between at national as well as institutional level, the US reacted faster and fiercer. This is obviously due to the fact that the United States communicated on a bilateral level and spoke with one voice. Besides, the United States has quite the experience with pressuring authoritarian regimes. Since 1945, almost all of American projects of foreign interference have contained some sort of anticommunist element.<sup>208</sup> However, Jack Donnelly does reason that China in this case is an exception. Strategic and economic rationales are mostly dominant in the human rights pressure persisted on the Chinese government. Nevertheless, Donnelly does mention that without this appeal to communism it would be much more difficult to gain domestic support for intervening in repressive foreign regimes.<sup>209</sup> He states:

We should not underestimate the remaining problem. U.S. interventions to pursue narrow national interests, especially in the Western Hemisphere, long predate the cold war. But with ideology no longer distorting American perceptions, it is becoming increasingly clear that relatively few countries are of real strategic significance. (...) The post-cold war reduction in foreign support for repression is a significant advance in the international struggle for human rights. But there is no automatic translation into policies of support for newly democratic countries that would lead to comparable further progress in the next several years.<sup>210</sup>

Furthermore, Donnelly notes the following:

In theory and practice alike, protected individual interests often conflict with the wishes of the majority. Many people, (...) want to use their political power to harm their enemies or to gain advantage for themselves. (...) The potential conflicts between human rights and democracy have been resolved by (...) the liberal democratic welfare state. This type of policy, which is the implicit model underlying the Universal Declaration of Human Rights and other international instruments is liberal: the state is seen as an institution to create the conditions needed to realize the rights of its citizens.<sup>211</sup>

Thus, it might be said that ideology, the spread of liberalism, plays a significant role in the US foreign policy. Nevertheless, it seems likely that economic strategic interests have the upper hand in the relations with China.<sup>212</sup> Donnelly makes this clear by stating that the gap between markets and economic and social rights is even greater than that between electoral democracy and civil and

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<sup>208</sup> Jack Donnelly, *International Human Rights. Dilemmas in World Politics* (Boulder 1998), 150.

<sup>209</sup> Donnelly, *International Human Rights* 150.

<sup>210</sup> Ibidem, 150-151

<sup>211</sup> Ibidem, 155.

<sup>212</sup> Ibidem, 100-180.

political rights.<sup>213</sup> 'If human rights are what civilize democracy, the welfare state is what civilizes markets. Only when the pursuit of prosperity is tamed by economic and social rights does a political economy merit our respect.'<sup>214</sup> And especially this assumedly logical development is what determines the situation in China. The development of the Chinese economy is not being tamed by the development of rights. Donnelly mentions that this is in particular an important point for the foreign policy of the United States due to their involvement in regulating markets worldwide. Donnelly argues that there is a disturbing parallel between cold war anticommunism in the past and the current obsession with the market. 'Excessive focus on the 'problem' (communism/command economies) yields inattention to the 'unintended' consequences of the 'solution' (dictators/markets).<sup>215</sup>

Hence, the challenge for the United States is to develop a realistic human rights policy and to integrate into the foreign policy.<sup>216</sup> The US could integrate human rights in issues such as trade and security into a secure bilateral strategy.<sup>217</sup> Donnelly argues this has not happened so far, and reasons that the 1990s has been a period of missed opportunities.<sup>218</sup>

The emphasis on strategic economic goals in interaction with the Chinese government is confirmed by a 1996 US policy document directed to the Secretary of Defense, mentioning that the Chinese government has perceived President Clinton's de-linked renewal of the MFN status from the Chinese human rights situation as a lower priority to human rights issues in general. Moreover, if human rights are put in a too high of a position in the relations with China there is little hope of improvement.<sup>219</sup> 'Civilian institute analysts urge the US to take a strategic perspective when handling issues in Sino-American relations, by which they mean that the US should put less stress on issues like human rights.'<sup>220</sup> The report furthermore mentions that progress in US-China relations will be made if the human rights subject will be approached in a 'private and non-confrontational matter', thus a return to bilateral means and therefore a 'release pressure and the annual vote on a US sponsored resolution at the UNCHR'.<sup>221</sup> Nevertheless, the United States did not comply with these

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<sup>213</sup> Donnelly, *International Human Rights* 159.

<sup>214</sup> *Ibidem*, 160.

<sup>215</sup> *Ibidem*.

<sup>216</sup> *Ibidem*.

<sup>217</sup> *Ibidem*, 128.

<sup>218</sup> *Ibidem*, 163.

<sup>219</sup> 01968/1996/11/07 'Chinese perspectives on Defense Minister Chi Haotian's Visit to the United States and Key Issues in Sino-American Relations' by Banning Garrett and Bonnie Glaser. Prepared for the office of the secretary of Defense, International Security Affairs. (via national security archives)

<sup>220</sup> 01968/1996/11/07 'Chinese perspectives on Defense Minister Chi Haotian's Visit to the United States and Key Issues in Sino-American Relations' by Banning Garrett and Bonnie Glaser. Prepared for the office of the secretary of Defense, International Security Affairs. (via national security archives), 24.

<sup>221</sup> *Ibidem*.

advice, since in 1997 supported a resolution again.<sup>222</sup> However, multilateral economic sanctions and economic sanctions executed by the United States were replaced by bilateral moral pressure.<sup>223</sup>

In sum, the American government reacted on the Chinese human rights repressions by using economic sanctions and by submitting resolutions at the UNCHR. Later on, the US created a bilateral dialogue on condition that China made some improvements on medical provisions towards prisoners and sign the ICCPR.

Overall, the US was much more outspoken in condemning the Chinese human rights policy than the European Union. The US reacted faster and fiercer, and persisted upon dialogue more than the EU. This is not strange, considering the complexity of organization structures in the EU and the different national interests. Another reason why the US reacted more vigorously is that US already had some experience in pressuring authoritarian regimes such as the Soviet Union. Third, an important component of US foreign human rights policy is ideology, more specifically the belief in democratization process and anticommunism.

However, scholars disagree to what extent the American attitude towards China is influenced by ideology. I think it is more probable that as argued in chapter two, economic strategic interests have the upper hand. That is also demonstrated by the fact that the first measure taken by the US was debating whether to continue the Chinese MFN status. And, as Donnelly stated, in the US there is a parallel with cold war anticommunism in the past and obsession in regulating worldwide markets nowadays.

### **§3.3: The Netherlands**

For the government of the Netherlands the Tiananmen Square incidents in 1989 were a reason to condemn the Chinese human rights situation. From the year 1990 onwards, the Netherlands joined the common position in the United Nations multilateral fora to condemn the Chinese operations.

The Netherlands was one of the first countries to take initiative in this forum. Already in the 44<sup>th</sup> session of the UN General Assembly, just a few months after the Tiananmen Square incidents, the Netherlands pleaded for to condemn the lack of freedom of speech in China. When this initiative found little resilience, the Dutch Minister of Foreign Affairs Hans Van Mierlo once again brought up the topic of the human rights violations in China during the 46<sup>th</sup> General Assembly in 1990. Australia, Japan, Canada and Sweden supported this Dutch point of view and designed a draft resolution against China. The draft resolution was supported by the United States and all fellow European

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<sup>222</sup> 02008/1997/04/14 'China resolution at UN Human Rights Commission. US Department of State (via NSA) <http://www.state.gov/www/briefings/statements/970414.html>

<sup>223</sup> Kent, *Between Freedom and Subsistence*, 217.

Member States.<sup>224</sup> This initiative did not prove to be successful, due to the fact that China and some fellow allies proceeded into a so-called 'no-action motion', a procedure which pre-empts the voting and discussing on resolutions.<sup>225</sup>

In the following years, the Netherlands again submitted or supported resolutions against China. In the 51st Assembly in 1994 the Netherlands urged for a common EU draft resolution against China, risking another no-action motion. On one hand, The Dutch Ministry of Foreign Affairs however did acknowledge a minor step in the good direction on the Chinese side, with the initiation of the EU-China Human Rights Dialogue. On the other hand the Ministry wanted to prevent the dialogue becoming a symbol of progress concerning the Chinese human rights situation.<sup>226</sup> After the submission of the resolution by France on March 7<sup>th</sup> 1995 the Chinese government responded, as expected, with another no-action motion.

In 1996 the Netherlands once again supported a new draft resolution against China. The situation in China had slightly improved by allowing access to a special reporter of the UN. On the other hand was the second round of the EU-China dialogue found to be unsatisfactory? Overall, according to a 2006 policy paper of the Dutch Ministry of Foreign Affairs about the Dutch commitment in the Human Rights bodies of the UN, it seemed that in the years 1995 and 1996 the attention towards the human rights situation in China increased. A reason for this boost in interest was the visit of Prime Minister Kok and Minister of Foreign Affairs van Mierlo to Beijing in 1995. The reports of this visit mentioned that the human rights efforts in dialogue with the Chinese authorities could not compete with the interest of intensifying economic bilateral relations.<sup>227</sup>

The increased attention by Dutch NGO's, the House of Representatives and the Dutch government on the Chinese human rights situation thus resulted in yet another draft resolution in 1996. During an EU Meeting in Geneva the Dutch Permanent Representation to the EU reminded the other EU member states that not submitting a resolution against China would damage credibility of the EU human rights policy severely. Retreating would not be explicable to the international press, NGO's and more importantly the United States, which by then had been more straightforward in its position towards China.<sup>228</sup>

This argument, together with a threat from the Chinese counterparts to sanction the

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<sup>224</sup> Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens', *Ministerie van Buitenlandse Zaken: IOB Werkdocumenten* (2006) 1-138, 53.

<sup>225</sup> Rights & Democracy, 'Bilateral Human Rights Dialogue' January 2001 <http://www.dd-rd.ca/site/publications/index.php?id=1290&page=2&subsection=catalogue>

<sup>226</sup> Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 54.

<sup>227</sup> Tweede Kamer 1995-1996, 24261 en 24469, nr. 2. In: Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 56.

<sup>228</sup> PV Geneva to Ministerie BZ, 11 maart 1996 in: Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 57.

Netherlands economically, proved that the Netherlands were more determined to submit a resolution than ever. However, during the 52<sup>nd</sup> assembly it became clear the Dutch found themselves isolated in this attitude. Other EU-member states did not want to compromise their economic relationship with China. A common European point of view was further away than ever. In 1996 when Italy presided the EU, the Italian government spoke out their doubt on the use of yet another resolution. Also France did not back up another resolution. Instead, the French government preferred a trade-off declaration in which China would make a couple of concessions such as the signing of the International Covenant on Civil on Political Rights. This initiative was supported by several other EU member states, but opposed by most Nordic states.<sup>229</sup> In the end a resolution was submitted in 1996. This resolution was comparable to the resolution of the year before.

In 1997, the Netherlands held presidency of the European Union. Despite the presidency, the general interest in putting effort in another China resolution was minimal. This reduced interest in the matter however was no reason for the Dutch government to abstain from submitting a resolution in 1997. In this year precaution was necessary, since due to the Dutch presidency of the Union there would be less space for Dutch national interests.<sup>230</sup> Reaching consensus between the European member states would once again not prove itself easy. Van Mierlo wanted to reconcile these during a coordination meeting prior to the UNCHR meeting. The intention of this meeting was to find a common ground between the member states. However, in 1997 no consensus could be found.<sup>231</sup>

To sum up, immediately after the incidents in 1989 the Netherlands took initiative in condemning the human rights situation in China. However, it proved itself difficult to successfully unite this point of view with that of other European member states. The fact that the initial resolutions resulted in a no-action motion on the Chinese side did not help this unification either.<sup>232</sup>

This effort to condemn the human rights violations in China is explained in the 2006 Ministry of Foreign Affairs policy paper on this topic. The Ministry of Foreign Affairs operated on a basis of principal combined with political arguments. Political arguments played an important role, such as the credibility and support of a common EU Human Rights policy, as well as being able to act decisively in a multilateral forum. Especially in 1997, when the Netherlands held presidency, the maintenance of the image of being a human rights advocate played a huge role. It proved itself painful when precisely in this year negotiations went downhill and France broke the annual European

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<sup>229</sup> Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 57-58.

<sup>230</sup> Malcontent and Huijboom, 'De Nederlandse Inzet in de VN', 58-64.

<sup>231</sup> Balducci, 'The Limits of Normative Power', 42.

<sup>232</sup> Malcontent and Huijboom, 'De Nederlandse Inzet in de VN', 1-138.

consensus.<sup>233</sup>

Thus, the Dutch role in establishing resolutions against China was pro-active immediately after the events in 1989. The incident in 1997 shows that the Netherlands wanted to be seen as an advocate of human rights enhancement. How is this Dutch advocate position on human rights enhancement in China to be explained?

The Netherlands was, in comparison to other countries, quite early in implementing a clear human rights policy towards China.<sup>234</sup> Floribert Baudet, author of a publication about Dutch human rights policy, argues that with the initiation of the minister of foreign affairs Norbert Schmelzer in 1971 a new direction was given towards the Dutch human rights policy. Protection and promotion of human rights from that moment on were to be a primary policy objective.<sup>235</sup>

Afterwards, several factors such as the ending of the Cold War, the Vietnam War, the apartheid, and the increasing popularity of television news, contributed to the increasing stimulus and interest for human rights enhancement, Baudet argues. Domestic affairs contributed to this new focus on human rights as well, such as democratization processes, the Cultural Revolution in the sixties and the secularization of Dutch society. Baudet reasons that one of the biggest motives behind it all was the trauma the Dutch society experienced after the decolonization process.<sup>236</sup>

Peter Baehr wonders to what extent political and economic motives have played a role in the Dutch human rights policy. 'Should human rights policy have consequences for the economic relations between states? Would breaking off such relations contribute to the improvement of human rights in the affected country?'<sup>237</sup>

Baehr argues that neither the Dutch government nor the business community has the power to decide matters. The government has a direct impact on business through giving out export licenses and credit reinsurance. Economic relations have a possible effect on human rights in two ways: economic relations can have a negative effect on the human rights situation in a specific country or they can be used positively to improve a certain situation. Clear is overall that human rights and economic relations are linked.<sup>238</sup>

However, in the case of the Dutch role in submitting resolutions against China in the 1990s, economic interests did not seem dominant. The Dutch loyally supported any initiative for a

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<sup>233</sup> Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 56.

<sup>234</sup> Wong, 'Towards a Common policy', 170.

<sup>235</sup> Floribert Baudet, *'Het heeft onze aandacht' Nederland en de rechten van de mens in Oost-Europa en Joegoslavië, 1972-1989* (Alpen aan den Rijn 2001) 254-255.

<sup>236</sup> Baudet, *'Het heeft onze aandacht'*, 254-255.

<sup>237</sup> Peter Baehr et al., 'Human Rights in the Foreign Policy of the Netherlands', Antwerp, Oxford and New York: Intersentia (2002) 1-25, 217-23, 12.

<sup>238</sup> Peter Baehr et al., 'Human Rights in the Foreign Policy of the Netherlands', 13.

resolution from 1989 onwards, and when matters became more complicated from 1995 onwards the Dutch government stuck with the tradition of the submitting resolutions. Other European Member States like France let economic interests prevail. This becomes more visible in the case of the resolution of 1996, where France wanted to refrain from submitting a resolution. Reason for this waive was a secret Franco-Chinese Airbus deal. Other member states such as Italy, Portugal, Spain and Germany supported the French initiative of refraining, whereas the Netherlands, Belgium, Ireland and Luxembourg wanted to submit a resolution against China as every year.<sup>239</sup>

Jack Donnelly explains this difference in attitude between the European member states in by arguing that in contrast with larger states, smaller states tend to rely more on international organizations because multilateral action allows the smaller states to exert more influence. Donnelly illustrates his statement by noting that the human rights policies of states such as Britain, France and Japan is more equal to that of the United States than states such as Norway and the Netherlands.<sup>240</sup>

However, Donnelly also mentions that size alone does not explain all the differences in human rights pressure. Instead of positioning itself more neutrally such as Sweden or Switzerland, the Netherlands has a strong Western orientation in its foreign policy.<sup>241</sup> He states: 'Most of the factors that contribute to aggressive effort to pursue international human rights in a country's foreign policy have much more to do with its national political culture and contingent political facts than with its international political position.'<sup>242</sup> Donnelly exemplifies this by saying that per capita, the Dutch membership of Amnesty International exceeds American membership in the National Rifle Association which is one of the greatest interest groups in the US.<sup>243</sup>

Opposing Donnelly's argument, Joern- Caster Gottwald argues that the Netherlands in its international human rights approach is keener to follow their national interest instead of an integrated approach.<sup>244</sup> He writes: 'The Netherlands' policy calls for an overall revision of Dutch policies regarding the growing significance of China and to make the best use of its strengths It is remarkable for its early specialization and clear identification of key areas, whereas the Netherlands sees clear opportunities for its domestic enterprises and administration.'<sup>245</sup>

Also Peter Baehr writes that the Netherlands in relation with China tried to maintain good economic relations in spite of the human rights violations going on in the country, due to the feeling

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<sup>239</sup> Peter Malcontent and Anke Huijboom, 'De Nederlandse Inzet in de VN-Commissie voor de Rechten van de Mens' 57-60.

<sup>240</sup> Donnelly, *International Human Rights* 111.

<sup>241</sup> Ibidem, 111-113.

<sup>242</sup> Ibidem, 113.

<sup>243</sup> Ibidem.

<sup>244</sup> Joern-Caster Gottwald, 'Europe and China: Convergence, Politicization and Assertiveness', *East Asia* 27 (2010) 79-97, 81.

<sup>245</sup> Joern-Caster Gottwald, 'Europe and China: Convergence, Politicization and Assertiveness', 79-97.

that economic development would stimulate stability in China and would therefore improve the human rights situation. Interesting was that it was actually the Chinese government that broke off economic relations with the Netherlands in 1997 as a consequence of the attitude of the Netherlands in the UNCHR.<sup>246</sup>

Overall, Donnelly's argument that smaller states rely more on international organizations and that the Netherlands had a strong Western orientation in its foreign policy is the most applicable to the case of the Dutch position at the UNCHR in the 1990s. When it comes to the role in submitting resolutions against China in the UNCHR, there has been no clear visible proof in the Dutch attitude for stating that economic interests have prevailed over the principal notion of human rights violations. In fact, the Netherlands even showed its sincere disappointment when in the 1996 resolution European consensus could not be reached because other member states such as France and Germany feared to risk their economic relationship with China.

Hence, it can be said that the Netherlands' human rights policy in the UNCHR in the 1990s has not proved itself to be led by political or economic motives. The Netherlands were in favor of establishing a common European position on the matter of human rights violations in China and hence of a common European human rights policy. Perhaps due to the size of the Netherlands, the state relied more on the EU and its role in the UNCHR so that the Dutch could exert more influence and create some good will by showing themselves as a human rights advocate.

This case study provides demonstrates the complexity of decision making processes in the EU and in the UNCHR. The examples mentioned in this paragraph are intended to understand the failure of the EU-China dialogue and other European initiatives to reprimand China for its human rights policy. Furthermore, this case study confirms that a human rights debate can serve many other purposes than to merely enhance human rights. The case of the Netherlands shows that condemning the human rights policy in other countries can be used to obtain prestige, political power or reputation. Hence, this paragraph confirms the argument that human rights and political pressure can be used to pursue other interests.

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<sup>246</sup> Peter Baehr et al., 'Human Rights in the Foreign Policy of the Netherlands', 222.

## Conclusion Chapter 3

The political behavior of the European Union, the United States and the Netherlands have been subject of study in this chapter. In particular the different ways in which these actors have pressured China to change their human rights policy have been examined.

The foreign policy of the European Union is distinguished by three components: the national foreign policies of the member states (the Netherlands has been a case study in this chapter), the external trade relations between the EU member states and China, and the Common Foreign and Security Policy. This CFSP consisted of initiatives such as the arms embargo and the EU-China dialogue. What characterized these initiatives is an ongoing ambiguous attitude in decision making processes.

The EU has followed a policy of constructive engagement in the relationship with China. The key element of this policy is never to cut off relations, but keep supporting and stimulating change instead. This attitude has been criticized. It can be concluded that the EU has not been effective and persistent in condemning the Chinese human rights policy. The EU-China dialogue is a great example of constructive engagement policy and albeit has not proven itself rather successful. The main reason for failure was the lack of effort of some of the larger EU member states such as France, being scared of losing their commercial advantages.

Overall, the discord in the arms embargo debate between member states, the lack of success of having submitted resolutions adopted through the UNCHR and the inactivity in the EU-China dialogue have resulted in wedge-issues. The Chinese government eventually came out stronger due to the discord within the EU. Hence, there is no established coordinated foreign policy towards China, and the EU does not have the will, nor do they have enough political instruments to realize it.

The question is whether an established European Chinese policy is actually necessary. The human rights situation in China is despicable according Western -, as well as United Nations standards. Remarkably the standards of the latter have been embraced by the Chinese government. However, the EU does not have the means to compel China to change its human rights policy. It is questionable to what extent the EU really attaches importance to the human rights violations in China. Economic advantages have proven to be of more value to the EU member states. If the EU decides that condemning the Chinese human rights violations is still of significant importance, it is advisable to focus on shared concerns such as energy consumption and illegal immigration and set fixed goals to accomplish. This would create a reciprocal dialogue with shared benefits which would create the opportunity for the West to abandon their absolutist position in moral matters.

On the other hand, the United States government reacted on the Chinese human rights repressions by using economic sanctions and by submitting resolutions at the UNCHR together with the EU. Later on, the US created a bilateral dialogue on the condition that China should make some improvements on medical provisions towards prisoners and should sign the ICCPR.

The US has been much more outspoken in condemning the Chinese human rights policy than the European Union. The US reacted faster and fiercer, and persisted upon dialogue more than the EU. This is not strange, considering the complexity of organization structures in the EU and the different national interests. Another reason why the US reacted more vigorously is that US already had some experience in pressuring authoritarian regimes such as the Soviet Union. Third, an important component of US foreign human rights policy is ideology, more specifically the belief in the democratization process and in anticommunism.

Moreover, the ideology basis in the US foreign policy is extended by the American obsession of regulating worldwide markets. China has gained an increasingly dominant position in the worldwide market and the US are growing more and more economically dependent of China. The US tries to counterbalance this development by using its moral dominance. This development is not that obvious, since economic matters are perceived in liberal terms, assuming there is a mutual benefit. On moral matters such as human rights, condemnations are absolutist. One party is good, and the other is evil. Hence human rights pressure is used as a political instrument in the case of the United States in order to realize their economic objective. This objective is to regulate worldwide markets and avoiding becoming economically dependent of China.

This is not the case within the EU. The common European pressure exercised on China has been perceived as being weak. Since the EU does not share a common economic objective, the political reaction has not been as fierce as that of the US. The EU is a normative power and through constructive engagement the EU tried to create a dialogue with China on the subject of human rights. But politics is no discussion group. With no clear input, no clear objective and no clear output no clear progress has been made.

Problematic, however, is the discord between the EU member states. The European normative attitude is hard to swallow when the separate nation states show a different, more pragmatic and economic attitude. Whereas some member states have been led by economic opportunities, such as France in the 1996 UNCHR resolution, others have been more pro-active in condemning the Chinese human rights violations, such as the Netherlands. The reason for this is that smaller states rely more on international organizations. Perhaps due to the size of the Netherlands, the country relied more on the EU and its role in the UNCHR in order to exert more influence and create some good will by showing themselves as a human rights advocate. Concerning the

Netherlands, no clear proof could be found that supports the use of human rights as a political or economic instrument.

## Summary and Conclusion

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*'To what extent was the West applying political and economic pressure on China to change the Chinese human rights policy from 1989 to 2000, what elements did this pressure consist of, and was this pressure used as an instrument to pursue other interests?'*

This question has been answered in three different chapters. The first chapter elaborated upon the Chinese history and the human rights development. From 1970 onwards, human rights were limited with the drafting of each following constitution. The year 1989 was a turning point, in Chinese politics as well as in the Western foreign policy. The Western world witnessed the repressiveness of the Chinese government wherein many protesters were brutally killed at the Tiananmen Square. The West reacted fiercely and condemned these events. The repression demonstrated in 1989 does not comply with the basic human rights principles China embraced through the treaties of the United Nations. China adopted the Universal Declaration on Human Rights, signed the ICCPR, and signed and ratified eight other human rights conventions such as the ICESCR, the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. The ICCPR is the only treaty for which the UN cannot rightly claim the Chinese government to enforce, since a signature alone without ratification is not legally binding. However, China's human rights situation has improved marginally. Progress has been made on migrant and labor rights, but civil and political rights remain underdeveloped in China.

In the second chapter human rights theory has been addressed. Universalism is the grounding principle of all human rights treaties such as the Universal Declaration of Human Rights. Hence, it is important to properly comprehend the principle of universalism to understand the human rights problems in China. Why is China not able to cope with this principle? Universalism stands for a common and universally applicable understanding of rights and freedoms. In practice, China embraces a cultural relativist perspective, since human rights standards should not override cultural values. Somewhere in between universalism and cultural relativism stands the cross-cultural approach. In the cross-cultural approach a common understanding of human rights ought to be found between different cultural values through dialogue, and active participation in the formation of human rights treaties in multilateral forums.

The question remains, to what extent human rights can be culture bound, viz. applied and adjusted to fit each culture. In this regard, it can be argued that the cross-cultural approach is the most desirable. The biggest part of Western influence in the Universal Declaration is the emphasis on

individualism, but individualism does not delegitimize culture. Thus, rights are by definition culture bound. However, human rights should not be expected to set out everything people want them to do. Whereas in its legal foundation human rights are universally applicable, in practice human rights function as a social and cultural framework in which interpretation matters.

However, if rights are by definition culture bound, why do Western governments insist on inflicting universal values onto China? A possible explanation is the conditional relationship between economic relations and political principles such as human rights. Human rights cannot be regarded in isolation and are always linked to economic relations. Political arguments can be used to reach an economic objective and vice versa. Therefore, economic means can be used to stimulate Chinese human rights enhancement, such as involving Multinational Corporations.

This conditional relationship between economic relations and political principles has become more obvious in the third chapter. The former focus on anticommunism in the political behavior of the United States has been replaced by the desire of dominating global markets. To reach this objective, political pressure on human rights has been used. This is exemplified by several decisions the US government took, for instance the approved legislation that urged the Chinese government to improve its overall human rights situation bargained for special export rights to the American market. Moreover, the annual renewal of the MFN status was made dependent on human rights assessment in 1993. The US created a moral dominant perspective and condemned China on absolutist terms.

Overall, the US has been much more outspoken in condemning the Chinese human rights policy than the European Union. The US reacted faster and fiercer, and persisted upon dialogue more than the EU. This is not strange, considering the complexity of organization structures in the EU and the different national interests. Another reason why the US reacted more vigorously is that US already had some experience in pressuring authoritarian regimes such as the Soviet Union.

The American attitude towards China was determined by an absolutist perspective. In an absolutist perspective, moral matters such as human rights enhancement are characterized by a 'good versus evil' perspective. In this case, the United States perceives itself as good, whereas the Chinese government is considered as evil. This position is contrary to the position of the European Union, that has tried to create mutual bargaining position on the field of human rights. This so called 'constructive engagement' policy resulted in the creation of the EU-China dialogue. The EU tried to maintain relations whilst stimulating change.

The European constructive engagement has been severely criticized. It can be concluded that the EU has not been persistent and effective enough in condemning the Chinese human rights violations. The main reason for criticizing the European attitude towards China was the lack of effort

of some of the larger EU member states, such as France being scared of losing their commercial advantages. Since moral issues are regarded in international politics from an absolutist perspective point of view (good versus evil), one party has to come out stronger than the other. Therefore, whilst the EU tried to create a mutual bargaining position, the EU gave away power to the Chinese government.

It remains questionable to what extent the EU attaches value to the human rights violations in China. Economic advantages have proven to be more valuable to the EU member states. If the EU decides that condemning the Chinese human rights violations is still of significant importance, it is advisable to focus on mutual concerns such as energy consumption and illegal immigration and set out fixed goals to accomplish. The European normative attitude does not comply with the pragmatic approach of some of the member states. Some member states have clearly prevailed economic interests over moral issues such as human rights. The position of France in the 1996 UNCHR resolution provides a clear example. Other, smaller member states have been more pro-active in condemning the Chinese human rights violations, such as the Netherlands. The reason for this is that smaller states rely more on international organizations. Perhaps due to the size of the Netherlands, the country relied more on the EU and its role in the UNCHR in order to exert more influence and create some goodwill by showing themselves as a human rights advocate.

Overall, to answer the research question

*'To what extent was the West applying political and economic pressure on China to change the Chinese human rights policy from 1989 to 2000, what elements did this pressure consist of, and was this pressure used as an instrument to pursue other interests?'*

It can be said that the US reacted stronger and more fiercely after the 1989 Tiananmen Square incident. Hence, the US applied more political and especially economic pressure than the EU through the use of sanctions and clear condemnations. The EU tried to exert political pressure merely through dialogue. Both actors have tried to use the political and economic pressure as a political instrument to change China's human rights policy. However, the US has been more effective due to the use of ideology and absolutist perspectives.

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